

7 SEN. VAN de PUTTE: Mr. Chairman, would  
8 you recognize me for that motion at this time?  
9 SEN. FRASER: Mr. Chairman --  
10 CHAIRMAN DUNCAN: Before we do that, we do  
11 have a motion in writing that Sen. Huffman intends to  
12 introduce with the record, so why don't we do that first  
13 and then we'll do everything else. And it would be my  
14 suggestion to -- and what I had hoped to do was finish  
15 the testimony or at least the question and answers on  
16 the bill and then start at that point in time putting  
17 evidence into the record. So if that's suitable with  
18 everyone, it just makes a little more sense to me to  
19 keep it in order that way.  
20 SEN. VAN de PUTTE: Thank you,  
21 Mr. Chairman.  
22 And then I would like to ask my colleague,  
23 the author of the bill, to yield.  
24 CHAIRMAN DUNCAN: Okay.  
25 SEN. FRASER: Mr. Chairman, before we --

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1 CHAIRMAN DUNCAN: Senator Fraser, why  
2 don't we approach the chair; approach.  
3 (Off-the-record discussion at bench)  
4 CHAIRMAN DUNCAN: The Chairman recognizes  
5 Senator Huffman for motion in writing.  
6 SEN. HUFFMAN: Thank you, Mr. Chairman.  
7 At this time I move that the entire record  
8 and transcripts of the hearing related to Senate Bill  
9 362 heard by the Committee of the Whole during the 81st  
10 Legislative session be included in the record and would  
11 move that it marked as Exhibit No. 1.  
12 Exhibit No. 1 includes all the invited,  
13 public and written testimony, in addition to all of the  
14 exhibits submitted by the members during the hearing on  
15 Senate Bill 362. The previous testimony and debate on  
16 Senate Bill 362 is relevant, because then and now the  
17 objective is to create legislation that protects the  
18 integrity and reliability of the electoral process.  
19 It includes 870 pages of transcribed  
20 testimony. There were 13 invited witnesses plus two  
21 resource witnesses, 36 public witnesses and 29 written  
22 articles presented. So it includes all the exhibits as  
23 well, submitted by members during the 81st legislative  
24 session on the Committee of the Whole, which totals 55  
25 total exhibits.

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1 At this time I move for introduction of  
2 Exhibit No. 1 into the Committee of the Whole's records.  
3 (Exhibit No. 1 marked)  
4 CHAIRMAN DUNCAN: Members, you've heard  
5 the motion. Is there any objection to the motion?  
6 SEN. DAVIS: Question.  
7 CHAIRMAN DUNCAN: Senator Davis, do you  
8 have a question?

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9 SEN. DAVIS: Yes.

10 Senator Huffman, during the debate on the  
11 Senate floor last session, a number of questions could  
12 not be answered by some of the resource witnesses at the  
13 moment that they were asked; and, instead, there was a  
14 follow-up. For example, the Secretary of State's office  
15 and the Attorney General's office wrote follow-up  
16 answers to some of the questions that they were not  
17 prepared to ask during the hearing. Does your motion in  
18 writing include the inclusion of those written responses  
19 that were provided to the Senate after the hearing took  
20 place?

21 SEN. HUFFMAN: I am not advised on that,  
22 but I would certainly have no objection and would move  
23 for all of that to be included in the record, because I  
24 think it would certainly make it, you know, more  
25 complete and certainly would be relevant.

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1 The record has been certified by Patsy  
2 Spaw, the Secretary of the Senate, and so we might check  
3 with her to see if that was done. If not, we could  
4 certainly make sure that it was placed in Exhibit No. 1  
5 as part of the record.

6 SEN. DAVIS: Thank you. I would  
7 appreciate that.

8 CHAIRMAN DUNCAN: I suggest that it be  
9 Exhibit 1A, if there are additional information, so that  
10 it can be kept separate from what you are going to  
11 introduce in your motion in writing as Exhibit 1.

12 SEN. HUFFMAN: Yes, sir.

13 CHAIRMAN DUNCAN: Okay. Is there any  
14 objection to Exhibit 1 being included in the record?

15 All right. The Chair hears none. Exhibit  
16 1 will be included in the record.

17 (Exhibit No. 1 admitted)

18 CHAIRMAN DUNCAN: All right. Sen. Van de  
19 Putte.

20 SEN. VAN de PUTTE: Thank you,  
21 Mr. Chairman.

22 QUESTIONS FROM SENATE FLOOR

23 SEN. VAN de PUTTE: Would the gentleman  
24 yield, the author of the bill yield?

25 SEN. FRASER: I would yield.

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1 SEN. VAN de PUTTE: Thank you. Thank you,  
2 Mr. Chairman.

3 And thank you, Senator Fraser.

4 Senator Fraser, this is kind of like a  
5 dance where we have another song, another round, and so  
6 we find ourselves with another year and this version of  
7 the voter identification bill. And I wanted to ask you  
8 a few questions.

9 Given the fact that the bill that was  
10 debated during the 81st Legislature was a different

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11 bill, can you tell me the model for the bill that was in  
12 the 81st Legislature and the differences in what you  
13 have proposed in this legislative session?

14 SEN. FRASER: Well, if you don't mind, the  
15 bill before us today is Senate Bill 14, and I will  
16 probably spend my time talking about that bill. The  
17 bill you're addressing, obviously, didn't get through  
18 the process. So I'm going to be addressing the comments  
19 on Senate Bill 14 which is before us. So I would be  
20 glad to describe it, if you would like.

21 SEN. VAN de PUTTE: Well, my question has  
22 to deal with -- I understand that since last we met,  
23 there are two years and different court cases. And the  
24 bill that was before this body last legislative session  
25 was modeled on a Georgia law and used the template. And

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1 I understand it, this year's model is fashioned after  
2 the Indiana law?

3 SEN. FRASER: And I think you actually  
4 have made the point that I was going to make. Two years  
5 have passed. Since that time, we've had, you know,  
6 obviously, the confirmation by the Supreme Court on the  
7 photo ID and then also the preclearance of the Georgia  
8 bill by Dale Jays (phonetic).

9 So looking at, you know, the experience of  
10 the bill in place, the simplicity of the photo ID, we  
11 chose to go with that. And as you will remember, the  
12 recommendation by President Carter and Secretary of  
13 State Baker was, you know, the national photo ID, and  
14 that's what we're attempting to implement.

15 SEN. VAN de PUTTE: Thank you.  
16 Mr. Chairman.

17 And a few other questions. With the  
18 Carter-Baker Commission, they felt very strongly about  
19 encouraging the maximum participation in voter and  
20 suggested the type of strategies that we're using. But  
21 the addendum for both gentlemen and the members of the  
22 commission were that they, as I recall, and entered into  
23 the record during last legislative session, was that the  
24 conclusion of the commission was that we should not  
25 implement the type of photo identification until you had

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1 universal registration, and I believe that was one. But  
2 given that or not, what I really wanted to ask you is --

3 SEN. FRASER: Hold on a second. I'm  
4 sorry. I disagree with that. That is not what the  
5 commission said. And if you would like to correct that,  
6 but I disagree.

7 SEN. VAN de PUTTE: The State of Georgia  
8 is under two sections of the Voting Rights Act, as is  
9 Texas. Is that correct?

10 SEN. FRASER: They are a Section 5 voting  
11 rights state like Texas.

12 SEN. VAN de PUTTE: And to your knowledge,

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13 is the State of Indiana subject to Section 5 of the  
14 Voting Rights Act?

15 SEN. FRASER: To my knowledge, they are  
16 not.

17 SEN. VAN de PUTTE: So Indiana would have  
18 a different burden of proof under a legal document and a  
19 legal challenge than the State of Georgia?

20 (Brief pause)

21 SEN. FRASER: I'm sorry. I was asking for  
22 some data. Would you reask the question, please.

23 SEN. VAN de PUTTE: The State of Indiana,  
24 which your bill is modeled after, without two alternate  
25 forms of identification; whereas, the Georgia bill that

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1 we talked about last legislative session had two --  
2 certainly had a photo identification, but if the voter  
3 was unable to produce a photo identification, they could  
4 produce for the election judges two forms of  
5 identification without, and it was utility bill and --  
6 in fact, the things that you struck here.

7 But in Indiana that requirement is not  
8 there, so we went with the Indiana bill. But my  
9 question is, Indiana is not subject to Section 5 of the  
10 Voting Rights Act. So their legal hurdle to the  
11 Department of Justice challenge is very different than  
12 what happened in the State of Georgia. Is that correct?

13 SEN. FRASER: The Indiana law has been  
14 approved by the U.S. Supreme Court, the Georgia law was  
15 precleared by the Department of Justice, and both of  
16 those have gone through that challenge.

17 SEN. VAN de PUTTE: Senator Fraser, when  
18 this legislature passes the voter identification bill --  
19 and there is no doubt that this bill will pass -- it  
20 will have to proceed to the Department of Justice for  
21 clearance?

22 SEN. FRASER: As a Section 5 state, we are  
23 subject to Section 5 rules.

24 SEN. VAN de PUTTE: So, yes, it will  
25 proceed to the Department of Justice?

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1 SEN. FRASER: We are a Section 5 voter  
2 rights state, and we will be subject to those laws.

3 SEN. VAN de PUTTE: And do you have any  
4 concerns that a Section 5 state as Texas would offer to  
5 the Department of Justice a voter identification bill  
6 that mirrors a non-Section 5 state rather than something  
7 that has already been upheld in the Georgia law, a  
8 Section 5 state?

9 SEN. FRASER: We are offering a bill that  
10 has been approved by the U.S. Supreme Court. And the  
11 parameters that the Supreme Court set, we meet all of  
12 those tests.

13 SEN. VAN de PUTTE: However, in the  
14 Indiana court and in the Supreme Court case on Indiana,

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15 what they said was, the undue burden was -- did not be  
 16 demonstrative because they did not have the level of  
 17 minority voters, that was never a check point, because  
 18 they did not have to go through the Department of  
 19 Justice. Is that correct?

20 SEN. FRASER: I'm sorry. I'm having  
 21 equipment failure here. Just a second.

22 (Brief pause)

23 SEN. FRASER: Senator, I'm sorry. I'm  
 24 asking for data, backup data, because the information  
 25 that you're addressing, my information doesn't agree  
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1 with that, is that the Georgia law that I have in front  
 2 of me said it is a photo ID. Do you have something that  
 3 shows differently?

4 SEN. VAN de PUTTE: Yes. In the Georgia  
 5 bill, you have to have a photo ID. However --

6 SEN. FRASER: I realize you're saying  
 7 that, but do you have -- you know, do you --

8 SEN. VAN de PUTTE: The bill that you  
 9 introduced last year had the two alternate forms of ID,  
 10 which was exactly the Georgia bill. We used the model  
 11 of the Georgia bill.

12 SEN. FRASER: And that bill is not before  
 13 us today; Senate Bill 14 is before us.

14 SEN. VAN de PUTTE: That's correct. And  
 15 so my question is --

16 SEN. FRASER: And I would ask you, did you  
 17 vote for that bill last year?

18 SEN. VAN de PUTTE: No, sir, I didn't.

19 SEN. FRASER: Okay.

20 SEN. VAN de PUTTE: But my question is, do  
 21 you have any concerns that we will offer to the  
 22 Department of Justice a bill, a voter identification  
 23 bill that is modeled after a state law that does not  
 24 have to go through Section 5, rather than a Georgia  
 25 model which already has been proven and has been  
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1 affirmed, both in the court case and the Department of  
 2 Justice? That was my question. Do you have any concern  
 3 that we will have done all of this debate and work, and  
 4 certainly to ensure the ballot security, only to be shut  
 5 down at the Department of Justice, because we are a  
 6 Section 5 state and what we're offering in your bill is  
 7 not something that has been approved by the Department  
 8 of Justice?

9 SEN. FRASER: I have no concern about  
 10 Senate Bill 14, both going before the U.S. Supreme Court  
 11 or going before the Department of Justice.

12 SEN. VAN de PUTTE: Thank you, Senator  
 13 Fraser. I wanted to ask a little bit of your thinking.  
 14 And in the bill that you have before us, the student  
 15 identifications were omitted from your list of  
 16 acceptable documentation. And could you give me the

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17 rationale why a student photo identification is not  
18 acceptable form of identification?

19 SEN. FRASER: The types of identification  
20 we've included are one from a government entity that  
21 would identify that person as who they are, that they  
22 say they are, they're a valid voter and a citizen of the  
23 United States, and these are the ones that we have  
24 suggested that would be acceptable.

25 SEN. VAN de PUTTE: So the rationale for

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1 not having student identification cards on the list,  
2 since you omitted them, is because they aren't issued by  
3 a governmental entity?

4 SEN. FRASER: I didn't say that.

5 SEN. VAN de PUTTE: I'm sorry. Can you  
6 repeat your answer.

7 SEN. FRASER: I said I did not say that.

8 SEN. VAN de PUTTE: So why were the  
9 student identifications -- you explained that the  
10 student identifications were omitted from the list of  
11 acceptable documentation, because it was not a  
12 government entity.

13 SEN. FRASER: The four types of  
14 identification that we are offering up we believe are  
15 less confusing, they're simpler for both voters and  
16 election voters. Everyone knows what they look like.  
17 There is a standardization of those, and they all look  
18 alike and it would be less confusing for the systems who  
19 are accepting the voter IT.

20 SEN. VAN de PUTTE: And, Senator Fraser,  
21 one of the provisions in your bill also omits birth  
22 certificates from the list of acceptable forms of  
23 identification, even though that does come from  
24 government entities. And so why is it that birth  
25 certificates were omitted?

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1 SEN. FRASER: This is requiring a photo  
2 ID, current photo ID.

3 SEN. VAN de PUTTE: Senator Fraser, are  
4 there any provisions in the bill to accommodate a voter  
5 that has a different address on their photo  
6 identification and their voter registration card?

7 SEN. FRASER: The Secretary of State is  
8 here as a resource witness, and I'm sure they will be  
9 glad to answer that.

10 SEN. VAN de PUTTE: No, I'm not asking the  
11 difference. I'm asking, is there any provision in  
12 Senate Bill 14?

13 SEN. FRASER: It is not addressed, because  
14 that is taken care of by the Secretary of State, that we  
15 don't address that in the bill. That would be by an  
16 interpretation of rule of the Secretary of State. They  
17 will be here, and you can ask them that question.

18 SEN. VAN de PUTTE: So also you would

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19 prefer that we ask the Secretary of State what sort of  
20 provision, since your bill is silent on different last  
21 names?

22 SEN. FRASER: Again, that's a question  
23 that --

24 SEN. VAN de PUTTE: So, for example, women  
25 that got married?

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1 SEN. FRASER: We've actually got two  
2 different -- you know, kind of an overlap here. We've  
3 got the Department of Public Safety that I believe  
4 Senator Williams is going to be answering questions,  
5 because that's his area. And then we also have the  
6 Secretary of State available as a resource that I think  
7 you can ask that question.

8 SEN. VAN de PUTTE: Senator Fraser, under  
9 Senate Bill 14, your voters can cast a provisional  
10 ballot. Under the Indiana bill, that is set at a 10-day  
11 cure. Why is it that you chose a six-day cure?

12 SEN. FRASER: And you'll remember, the  
13 Georgia law is only 48 hours, two days. They went 10  
14 days; the Georgia law went two days. We decided that  
15 six days should be sufficient to come back.

16 SEN. VAN de PUTTE: And as I understand  
17 it, the Georgia law does have a 48, but they can use two  
18 alternate forms of ID which are not in your bill. So  
19 what sort of --

20 SEN. FRASER: I'm sorry. You know, you  
21 keep saying that. You need to pull up the data to show  
22 me that, please.

23 SEN. VAN de PUTTE: So to prove their  
24 provisional ballot is correct and the six-day cure, what  
25 documentation does your bill have that is acceptable?

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1 SEN. FRASER: Photo ID.

2 SEN. VAN de PUTTE: So only a photo  
3 identification. So they would have to --

4 SEN. FRASER: The acceptable photo IDs  
5 that are outlined in the bill would be an acceptable  
6 form, yes.

7 SEN. VAN de PUTTE: Senator Fraser, do you  
8 know right now in the State of Texas, we're able to cast  
9 provisional ballots? That's correct, isn't it?

10 SEN. FRASER: I'm sorry. Ask that again.

11 SEN. VAN de PUTTE: Current election law  
12 allows Texas voters to cast a provisional ballot. Is  
13 that correct?

14 SEN. FRASER: I'm sorry. That is another  
15 question I think you should ask the Secretary of State.  
16 It is my belief that, but I'm sorry, I don't want to  
17 answer that. You can, if you don't mind, ask the  
18 Secretary of State.

19 SEN. VAN de PUTTE: Thank you, Senator.  
20 Since it's based on Indiana law, do you believe that the

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21 State of Texas has a greater minority population than  
22 the State of Indiana?

23 SEN. FRASER: I'm not advised.

24 SEN. VAN de PUTTE: To your knowledge,  
25 have any studies been done to determine if there has  
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1 been, under current Texas voter laws, any impact that it  
2 would have on affected class of Latino and  
3 African-American voters?

4 SEN. FRASER: The bill that I'm laying out  
5 today is a model that has been approved by the U.S.  
6 Supreme Court, it has been precleared by the Department  
7 of Justice in Georgia. It will deter fraud. We're  
8 providing free access of cards. And, yes, we believe  
9 this will protect confidence in election in making sure  
10 only eligible voters are counted.

11 SEN. VAN de PUTTE: Senator Fraser, on the  
12 availability of free identification cards, is there a  
13 means test, or what sort of proof do citizens have to  
14 give to the Department of Public Safety to be able to  
15 get a free identification card under your bill?

16 SEN. FRASER: The Department of Public  
17 Safety is here as a resources witness. Senator Williams  
18 is also here. That's his area of expertise. If you  
19 have a question about that, if you would like, I will  
20 yield to Senator Williams now or you can wait and ask  
21 the DPS when it comes up.

22 SEN. VAN de PUTTE: Well, right now the  
23 DPS I don't think gives free IDs. But in your bill,  
24 what sort of process or documentation can voters use to  
25 get a free identification card, in your bill? What are  
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1 the --

2 SEN. FRASER: If you would like I can  
3 yield to Senator Williams or we can wait and have the  
4 DPS. Our instruction is the bill, is that they will  
5 issue an ID card and they will not charge. That is very  
6 clear to the DPS. And if you want to ask how that will  
7 be done, they will be coming up, and you will be able to  
8 ask that question. Or if you would like for me to yield  
9 to Senator Williams, we'll let him answer that.

10 SEN. VAN de PUTTE: No, Senator. Thank  
11 you. I appreciate this is just a different bill from  
12 last legislative session, and I was trying to get at  
13 least some of your thinking of why you went with a  
14 different bill than last year, a more restrictive, a far  
15 more restrictive bill than what we debated last  
16 legislative session. And I look forward to the  
17 questions, I look forward to the testimony today, but I  
18 don't have any other further questions.

19 And I'm sure some of my colleagues have  
20 questions, both of the author of the bill and any of the  
21 other senators that have certain sections that they have  
22 got expertise on.

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23 But thank you very much, Mr. Chairman. I  
24 don't have any other further questions.

25 CHAIRMAN DUNCAN: Senator Watson?

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1 SEN. WATSON: Thank you, Mr. Chair.

2 Will the senator yield for a couple of

3 questions? Oh, I'm sorry.

4 SEN. FRASER: One second, please. Are you  
5 wanting me to yield?

6 SEN. WATSON: Yes --

7 SEN. FRASER: Hold on a second, please.

8 SEN. WATSON: -- if you don't mind.

9 (Brief pause)

10 (Senator Whitmire speaking without mic)

11 SEN. FRASER: Do you have the floor now?

12 (Senator Whitmire speaking without mic)

13 SEN. FRASER: No, you're asking questions

14 over here.

15 (Senator Whitmire speaking without mic)

16 SEN. FRASER: Making sure I get the

17 answers correct.

18 I will yield now.

19 SEN. WATSON: Thank you, Chairman Fraser.

20 I want, if you don't mind, to ask about

21 the fiscal note for just a second. The fiscal note that

22 was attached to your bill, Senate Bill 14, indicates

23 that the fiscal implication to the state is anticipated

24 to be \$2 million. Is that correct?

25 SEN. FRASER: Could you hold one second.

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1 SEN. WATSON: Sure.

2 SEN. FRASER: I need to pull the data

3 here.

4 (Brief pause)

5 SEN. FRASER: Senator, I was just

6 verifying. We spent a lot of time last night talking

7 about this. I think you're aware that the HAVA funds

8 that come from the federal government, which I believe

9 are Help America Vote Institute, I guess it is, Help

10 America Vote, the HAVA, there are funds that come to

11 every state to the secretary of state. We have a fund

12 that is setting in the Secretary of State's office that

13 would be more than sufficient to handle this.

14 In other states like Indiana and Georgia,

15 the HAVA funds have been used before. We have requested

16 that those funds be available for this. They advised us

17 back, until the passage of the bill, they can't approve

18 the funds. But the assumption is that those funds are

19 before the Secretary of State, and they will be here at

20 some point. You can ask them about those funds, the

21 parameters, but it is our belief that the HAVA funds

22 will be available for this and would offset the fiscal

23 note.

24 SEN. WATSON: I appreciate that answer.

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25 My question was, it's a \$2 million fiscal note. Right?

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1 SEN. FRASER: Right now the fiscal note  
2 that was delivered is \$2 million, yes.

3 SEN. WATSON: Okay. And that's what I  
4 really wanted to ask about. And I'll talk about the  
5 fact that y'all want to take some federal funds, here in  
6 a second. But first of all, last session when we were  
7 talking about the fiscal note, my memory was and is,  
8 that at the beginning of the session when you filed the  
9 bill last session, there was a zero fiscal note, and  
10 then that got changed to the same as it is right now, a  
11 \$2 million fiscal note for voter awareness, and it was  
12 exclusively for voter awareness in the second fiscal  
13 note.

14 Can you tell me what analysis has gone  
15 into coming up with how much money should be spent on  
16 voter awareness and voter education regarding this bill,  
17 in order to get to that \$2 million?

18 SEN. FRASER: I think the analysis on this  
19 comes from the Secretary of State's office, and I'm sure  
20 they will be glad to answer your question. Two years  
21 ago before we started, we advised them that we needed  
22 voter education. If you remember in the bill, we  
23 discussed in that when we were discussing that, that we  
24 needed to have an appropriation for that.

25 I think Senator Ogden stood up and talked

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1 about the fact that they would be willing to make sure  
2 that there was money there. Since then, we have been  
3 made aware that the Secretary of State not only I think  
4 has a plan for doing that but also a plan for requesting  
5 the funds from HAVA.

6 SEN. WATSON: Well, I'll ask about that.  
7 So, then, let me ask you another question. You  
8 indicated in your opening comments that -- and I've read  
9 your legislation -- under this bill, everyone gets a  
10 free identification card if they come in and ask for a  
11 free identification card, they show a voter registration  
12 card and/or they apply for a registration card. That  
13 \$2 million that you've just talked about doesn't include  
14 the cost, any of the cost for providing these free  
15 identification cards, does it?

16 SEN. FRASER: I'm sorry. I was doing  
17 something else. Would you ask that last question again,  
18 please.

19 SEN. WATSON: Does the \$2 million in the  
20 fiscal note include any of the cost of providing free  
21 identification cards?

22 SEN. FRASER: To my knowledge, it does  
23 not.

24 SEN. WATSON: And, in fact, there is no  
25 means test and your bill forbids DPS from collecting a

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1 fee. If any eligible voter comes in or submits a  
2 registration application, they can then avoid what is  
3 the typical \$15 fee?

4 SEN. FRASER: Senator, have you seen the  
5 numbers that have been collected by DPS on the number of  
6 eligible voters that have registered since 2006, the  
7 ones that registered with a driver's license or a  
8 driver's license and a social security card that  
9 identified the number of people registering --

10 SEN. WATSON: Yes.

11 SEN. FRASER: -- that already had  
12 identification? So the question you're asking is, the  
13 universe we're talking about we believe is very, very,  
14 very small. In fact, the Carter Commission, after the  
15 implementation in both Indiana and Georgia, and actually  
16 Mississippi they looked at, they found that only 1.2  
17 percent of people did not have, already have a photo ID  
18 available, so the universe of this, so the  
19 question you're asking --

20 SEN. WATSON: Then why don't we talk about  
21 specific numbers. With you talking about those numbers,  
22 you're probably aware that in 2007, House Bill 218 was  
23 offered. It was referred to the committee, the Senate  
24 Committee on State Affairs. And in that one, which was  
25 HB 218, DPS talked specifically about identification  
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1 cards and it put a fiscal note, it believed that it  
2 would be \$1.3 million per biennium or \$4 million every  
3 six years out of the highway fund. Were you familiar  
4 with that?

5 SEN. FRASER: Senator, you're getting into  
6 an area that's outside of my area of expertise. We have  
7 the person that's in charge of that. You've got two  
8 choices. Either you can ask that question of DPS as a  
9 resource when it comes up, or I will yield to Senator  
10 Williams right now and he can answer your question.

11 SEN. WATSON: Senator, if you would answer  
12 that question.

13 SEN. FRASER: I now yield to Senator  
14 Williams.

15 SEN. WILLIAMS: I just want to be sure  
16 I've got your question right.

17 SEN. WATSON: Sure. Since we're talking  
18 about numbers here -- and I'm trying to get a feel for  
19 what the cost of this is -- in House Bill 218 in the  
20 2007 -- the 80th legislative session, there was a bill  
21 filed that dealt with the provision of identification  
22 cards. And in that one, the LBB indicated the fiscal  
23 note would be \$1.3 million or \$4 million every year  
24 coming out of the highway fund. Are you familiar with  
25 that?

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1 SEN. WILLIAMS: I'm not familiar with  
2 House Bill 218. But, you know, I take what you're

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3 saying --

4 SEN. WATSON: Sure. Okay.

5 SEN. WILLIAMS: -- at value.

6 SEN. WATSON: And since I anticipate that  
7 there would be deferral to you on the next question,  
8 too, let me just go ahead and ask that. Last session,  
9 in the 81st session, there was a bill by -- it was HB  
10 2335 that indicated, similar to what Senate Bill 14 does  
11 not, that there couldn't be a fee charged for issuing a  
12 document that someone might use as proof of their  
13 identification for purposes of voting. In the fiscal  
14 note there, the LBB singled out DPS identification  
15 cards, which is what we're talking about here, and  
16 assumed that if everyone used those, the number they  
17 came up in that fiscal note was \$47 million over five  
18 years. Are you familiar with that one?

19 SEN. WILLIAMS: I'm not familiar with  
20 that --

21 SEN. WATSON: Okay.

22 SEN. WILLIAMS: -- particular bill. But  
23 what I can tell you is that the cost to the Department  
24 of Public Safety for issuing an ID card is about \$1.67.  
25 It's a very small amount of money. So \$47 million

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1 sounds -- that's a lot of IDs at a buck 67 apiece. And  
2 so what I would say is that when I discussed this with  
3 the Department of Public Safety recently -- and they'll  
4 be here to testify about this in detail more -- I think  
5 that it would be difficult for them to determine now how  
6 many people might take advantage of the free ID card. I  
7 think it's probably not possible for them to estimate  
8 that.

9 But the cost, I think we're all pretty  
10 comfortable that it would be fairly negligible. When  
11 you look at the universe of registered voters, which is  
12 somewhere around 13 million people, I think, and you've  
13 got about 15 million people that have either a driver's  
14 license -- and I can get you the exact numbers. I have  
15 them here -- there are a lot of people that already --

16 SEN. WATSON: Right.

17 SEN. WILLIAMS: -- have state ID cards.  
18 And a lot of the folks that don't have those would be  
19 using a mail-in ballot, and there is no requirement to  
20 present any kind of photo identification for a mail-in  
21 ballot, and this legislative doesn't touch that. So we  
22 think that the chances that there's going to be somebody  
23 who is going to want to avail themselves, there will be  
24 some, but it's going to be a very small number.

25 SEN. WATSON: Of course, what I'm

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1 attempting to do is not engage in that as I vote no  
2 this. What I've tried to go is go back and find out  
3 what the LBB, which we rely upon for fiscal notes, has  
4 actually said about these sorts of things, with previous

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5 legislation that has addressed this, as opposed to  
6 speculation.

7 SEN. WILLIAMS: And, Senator Watson, I  
8 understand, and there are a lot of things -- I'm not  
9 familiar with those bills. And what I would tell you is  
10 that each -- the LBB comes up with their methodology  
11 based on what each bill's requirements are. And not  
12 being familiar with that --

13 SEN. WATSON: Sure.

14 SEN. WILLIAMS: -- I can't tell you what  
15 the difference between that and this is. But we did  
16 specifically sit down and talk to DPS, and they really  
17 don't expect that this is going to be any big burden on  
18 the agency that they're not going to be able to handle.

19 SEN. WATSON: Thank you for your answer.

20 SEN. WILLIAMS: Yes.

21 SEN. WATSON: I have a couple more  
22 questions for Senator Fraser, if that would be all  
23 right.

24 SEN. FRASER: I'm back with you.

25 SEN. WATSON: Okay. Great! Thank you,

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1 Senator.

2 Would the HAVA money that -- first of all,  
3 you're familiar that in the base budget that the Senate  
4 has but out, the \$2 million for this biennium for voter  
5 education has been explicitly cut. You're familiar with  
6 that. Right?

7 SEN. FRASER: I don't think the word  
8 "explicitly cut," I don't think it's been addressed.

9 SEN. WATSON: Well, it's been struck  
10 through in the base budget. Did you know that?

11 SEN. FRASER: I'm not advised.

12 SEN. WATSON: Okay. Are you also familiar  
13 that in this budget it calls for a \$358 million cut to  
14 the DPS budget?

15 SEN. FRASER: Again, I'm not on Finance;  
16 I'm not sure you're on Finance. And so, no, I  
17 haven't -- the base bill is the starting point of  
18 discussion, so I'm not advised.

19 SEN. WATSON: All right. So you're not  
20 advised whether, out of that 9.5 percent of the cut  
21 comes in regulatory and the licensing area for DPS?

22 SEN. FRASER: Well, and as you know, as we  
23 start the session, that's a draft budget as a starting  
24 point. We're a long ways from that being concluded. So  
25 the answer is no, I'm not aware.

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1 SEN. WATSON: Thank you very much.

2 Thank you, Mr. Chairman.

3 SEN. ELTIFE: Senator Whitmire, what  
4 purpose do you rise?

5 SEN. WHITMIRE: Will the gentleman yield?

6 SEN. ELTIFE: Senator Fraser yield?

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7 SEN. FRASER: Be glad to.  
8 SEN. WHITMIRE: Senator Fraser, a couple  
9 of questions about the implementation of your  
10 legislation if it passes. First off, I have to make  
11 this observation: Have you ever seen the gallery so  
12 empty when the Legislature is considering something  
13 that's been given such a high billing as Senator Duncan  
14 was making yesterday when he asked us to go to Committee  
15 of the Whole? I mean, how timely this was and how  
16 critical it was? The Governor has made it an emergency,  
17 and I don't think I've -- I don't know if there's 20  
18 people in the gallery. If it's so important, can you  
19 explain to me why the gallery is empty --  
20 SEN. FRASER: I am not advised.  
21 SEN. WHITMIRE: -- based on --  
22 SEN. FRASER: I'm concentrating on the  
23 action on the floor rather than looking up and seeing  
24 who is in the gallery.  
25 SEN. WHITMIRE: Well, but it's an

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1 indication, if the public is really concerned,  
2 particularly based on your polling data, which I'm sure  
3 you would join with, we don't govern in the state by  
4 polls normally, do we?

5 SEN. FRASER: Well, other than I find it  
6 interesting, whenever they asked the people of your  
7 district that you represent --

8 SEN. WHITMIRE: Sure.

9 SEN. FRASER: -- of whether they're in  
10 favor, the polls continue to show that the public, both  
11 Republican and Democrat --

12 SEN. WHITMIRE: Well --

13 SEN. FRASER: -- you say, "Will you  
14 support a person voting with a photo ID?"

15 SEN. WHITMIRE: And did you include in  
16 that question and would you be for it if it would  
17 disenfranchise senior citizens, students or others? You  
18 and I know it's all in how you ask the question. In  
19 fact, the way you're stating it, I'm surprised you  
20 didn't get 100 percent. If you ask people, "Are you  
21 against vote fraud?" I would assume you would get  
22 100 percent.

23 SEN. FRASER: Here's the question --  
24 here's the question --

25 SEN. WHITMIRE: It's the unintended  
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1 consequences that we're concerned about.

2 SEN. FRASER: "Do you favor or oppose  
3 requiring a photo ID before a person is allowed to  
4 vote?" Pretty straightforward.

5 SEN. WHITMIRE: I'm surprised you didn't  
6 get 100 percent if you include "and stop fraud." It's  
7 when you add into it, "if it meant disenfranchising  
8 senior citizens," and then I think you would have a

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9 significant drop.

10 The bottom line is, Senator Fraser, and  
11 we'll have -- and let's have this ballot: Would you  
12 concede that we're all, all 31 of us are against  
13 election fraud?

14 SEN. FRASER: I will not concede that  
15 until after the vote, and we're assuming the ones that  
16 vote for it are --

17 SEN. WHITMIRE: Well, let me go ahead and  
18 speak for the 12 of us that are probably going to vote  
19 "No." We're all against election fraud. And I would  
20 suggest we've actually seen an election process since we  
21 took this up two years ago. Let's look at the most  
22 recent election. What fraudulent activity this past  
23 November are you so concerned about? I think it's the  
24 election -- and maybe I should be more concerned.

25 If you look at the election results, it

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1 was an overwhelming victorious day for Republicans in  
2 November. You replaced 34 Democrats in the house. Now,  
3 are you suggesting there was significant fraud on that  
4 election day?

5 SEN. FRASER: Senator, all we're trying to  
6 do with this bill is that when you walk into the polling  
7 place and represent that you are John Whitmire --

8 SEN. WHITMIRE: Sure.

9 SEN. FRASER: -- that you can prove you  
10 are who you say you are before you vote, it's a very  
11 simple concept.

12 SEN. WHITMIRE: Except, Senator Fraser,  
13 the unintended consequences that you're going to  
14 disenfranchise people that have not been able to acquire  
15 these cards, and that's what I want to spend a few  
16 moments on. Walk me through a real life example of how  
17 a senior citizen in my district is going to acquire that  
18 card. Do they do it by mail? Do they have to do it in  
19 person? What's the process?

20 SEN. FRASER: Senior citizens over --

21 SEN. WHITMIRE: Give me a real life.  
22 Don't say, "We're going to provide it." Let's break  
23 down what an 86-year-old lady in my district, never been  
24 required to have one, how is she going to get her card?

25 SEN. FRASER: She would vote under current

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1 law because she's exempt.

2 SEN. WHITMIRE: You've given her an  
3 exemption. Does she have to prove, that day, her age?  
4 I mean, Troy --

5 SEN. FRASER: You can ask that question of  
6 the Secretary of State. But I'm assuming --

7 SEN. WHITMIRE: Well, you're the author.  
8 And let me just tell you, like I said, we're all against  
9 fraud. As elected officials, it's in our own personal  
10 self-interest to have honest elections with the highest

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11 integrity. We're doing it for the people that we  
 12 represent as well. So that's not the issue, are we for  
 13 or against fraud? It's the implementation, it's the  
 14 disenfranchisement, Troy, that we're fighting for and  
 15 what we've been fighting for, for the last couple of  
 16 years. Tell me how we're going to address the  
 17 unintended consequences of someone not being able to  
 18 vote on election day, because I know you don't want  
 19 that. And I --

20 SEN. FRASER: I was sent down here by the  
 21 people of my district to represent their views. The  
 22 polling of my district shows that it's almost 90 percent  
 23 of the people in favor of it.

24 SEN. WHITMIRE: Okay.

25 SEN. FRASER: The district that you

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1 represent, I think if you poll in that district -- and I  
 2 have used some polling that shows close to the same  
 3 number -- that say that when they're asked, "Do you  
 4 think you should have to show a photo ID?" and they say  
 5 yes.

6 SEN. WHITMIRE: And my --

7 SEN. FRASER: So my answer is, we need to  
 8 pass this, because the people in our district --

9 SEN. WHITMIRE: Well --

10 SEN. FRASER: -- believe that they should  
 11 show a photo ID.

12 SEN. WHITMIRE: First of all, I don't  
 13 govern by poll. And if I was at a town hall meeting and  
 14 I walked through, after they've said they're for voter  
 15 ID, then I start talking about the implementation of it,  
 16 they start being just as concerned as I am. So I want  
 17 to know how people are going to acquire these cards.  
 18 Forget the 86-year-old. Let's go to a 56-year-old  
 19 person. How do they acquire the card? Are you familiar  
 20 in Houston it takes two to three hours to get a driver's  
 21 license at the DPS office?

22 SEN. FRASER: John, I was about to ask  
 23 you, you know, ask you your age, but I know your age.  
 24 We're both 61. A 61-year-old person in our age group,  
 25 is it going to be a real problem for you and I to drive

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1 down to the DPS to get --

2 SEN. WHITMIRE: Well, see, that's what's  
 3 so sad about this discussion. You're not putting  
 4 yourself in the shoes of someone who doesn't have the  
 5 means that you and I have, they have to depend on  
 6 someone else for transportation. They may not have any  
 7 resources. How is a 56-year-old person in Houston,  
 8 Texas, going to acquire this card --

9 SEN. FRASER: We are not changing --

10 SEN. WHITMIRE: -- no driver's license.

11 SEN. FRASER: We are not changing the  
 12 mail-in ballot. And if someone has a reason that they

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13 need to vote by mail --

14 SEN. WHITMIRE: On a mail-in ballot, how  
15 do you prove -- that's early voting. How do you verify  
16 who you are in that instance?

17 SEN. FRASER: I'm sure the Secretary of  
18 State would be glad to answer that.

19 SEN. WHITMIRE: Okay. But that's not what  
20 we're talking about. We're talking about on election  
21 day, a person in Houston wants to vote, how do they  
22 acquire the voter ID, photo ID?

23 SEN. FRASER: The DPS and the Secretary of  
24 State will both be here, and I'm sure they will be glad  
25 to answer that question.

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1 SEN. WHITMIRE: Troy, you're proposing  
2 this. And before we go forward, I would like to know,  
3 do you have to go to the DPS office? Do you order it by  
4 mail? That's a critical concern of all of us that are  
5 voting "No" against this bill. And I don't --

6 SEN. FRASER: Senator, did --

7 SEN. WHITMIRE: -- think you want to  
8 disenfranchise anybody, but I'm afraid that there's  
9 unintended consequences that you have not envisioned.

10 SEN. FRASER: Did another senator advise  
11 you of what you had to do to go down to the DPS office  
12 to get your driver's license?

13 SEN. WHITMIRE: Well, we're not talking  
14 about me. We're fortunate; you and I are fortunate. We  
15 probably don't have to wait in lines. In Houston.  
16 Texas --

17 SEN. FRASER: There are 15 million drivers  
18 in Texas. Of the 31 Senate districts, I think that  
19 would mean there's about 500,000, I believe, in my  
20 district. And I don't think I've got a one of them that  
21 I instructed on how to go down and get a photo ID.

22 SEN. WHITMIRE: Okay. Well, let me just  
23 tell you about the DPS operations in Harris County. A  
24 working person cannot go by and get their license  
25 renewed on their lunch hour, before work or after work,

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1 because literally it's a two to three-hour wait. So how  
2 do you add this new group of participants that have to  
3 show up at a DPS office to get a voter ID.

4 SEN. FRASER: We have someone coming from  
5 the DPS. I think you can ask that question or  
6 I'll yield to Senator Williams.

7 SEN. WHITMIRE: I'm not sure if they're --  
8 I think you as the sponsor ought to explain that.

9 SEN. FRASER: The bill that I'm laying out  
10 is very clear, that it complies with the Supreme Court  
11 ramification and it also has been cleared by the  
12 Department of Justice.

13 SEN. WHITMIRE: Okay. So you don't know.  
14 Is that your answer?

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15 SEN. FRASER: I said we've got resource  
 16 witnesses that are coming. I'm not an expert in that  
 17 area. We do have an expert coming, and they'll be glad  
 18 to answer your question.

19 SEN. WHITMIRE: The DPS folks will have to  
 20 publicly say at Gessner and I-10 or at Tacoma and 290,  
 21 two sites in my district -- and I complained and asked  
 22 for more resources -- it's a two- to three-hour wait,  
 23 Governor Dewhurst, to get your driver's license renewed.  
 24 So you can't even go over there on your lunch hour and  
 25 get a driver's license, and now you want the folks to go  
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1 over there and, I assume, wait in line to get a voter  
 2 ID.

3 Let me ask you another question about the  
 4 education that you're going to provide. Is it going to  
 5 be done in bilingual materials with a --

6 SEN. FRASER: I'm sure the Secretary of  
 7 State will be glad to answer that question.

8 SEN. WHITMIRE: Well, you're the sponsor.

9 SEN. FRASER: And as the sponsor, I  
 10 invited the Secretary of State as a resource witness, to  
 11 make sure we have someone that knows the answer to that  
 12 particular question.

13 SEN. WHITMIRE: One also is, your bill  
 14 provides same-day registration. Now, according to you,  
 15 you're going to have a fail-safe system that you'll know  
 16 who is showing up to vote. Are you open to the idea  
 17 that someone who has gotten motivated in the last 30  
 18 days, maybe the days just leading up to the election,  
 19 with this secure form of ID can show up on election day,  
 20 prove who they are and ask to vote?

21 SEN. FRASER: The bill does not provide  
 22 for same-day registration.

23 SEN. WHITMIRE: I'm sorry. What?

24 SEN. FRASER: The bill does not provide  
 25 for same-day registration.

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1 SEN. WHITMIRE: Would you be amenable to  
 2 us proposing it and --

3 SEN. FRASER: The bill does not provide,  
 4 as I -- I filed the bill, and the bill does not provide  
 5 for same-day registration.

6 SEN. WHITMIRE: Okay. Thank you for your  
 7 answers.

8 CHAIRMAN DUNCAN: Senator Uresti.

9 SEN. URESTI: Thank you, Mr. Chairman.

10 Would the gentleman yield for some  
 11 questions?

12 SEN. FRASER: I would love to yield.

13 SEN. URESTI: Thank you, Senator Fraser.

14 I want to ask you a few questions, kind of to follow on  
 15 what Dean Whitmire asked you specifically regarding the  
 16 DPS offices. And I don't know if they're here yet or

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17 not. But particularly about my district, you know how  
18 large it is. It goes from San Antonio all the way to  
19 El Paso, and it has 23 counties, as I'm sure you're  
20 aware, Senator Fraser.

21 And one of the concerns that I have is  
22 that between here and El Paso -- and you may know this.  
23 If not, I would like to let you know and the other  
24 members know -- well, let me ask you this: Do you know  
25 how many of my 23 counties do not have a DPS office?

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1 SEN. FRASER: Senator, you know, the start  
2 of your description of this, I'm very familiar with the  
3 district, because I used to represent a lot of it. And  
4 that area between -- going out toward El Paso, I've had  
5 that when I was a state rep. It was in my state  
6 representative district. And then part of your other  
7 district was when I was a senator. So, yes, I'm very  
8 familiar with it.

9 The answer to your question that you're  
10 asking about driver's license location, we'll have  
11 somebody from DPS here, and I'm sure they'll be glad to  
12 answer that question for you.

13 SEN. URESTI: Well, in the meantime,  
14 Senator Fraser, let me let you and the members know.  
15 There are eight counties in my district out of the 23  
16 that do not have a DPS office. Loving County has no  
17 office, Crockett County, Hudspeth County, Jeff Davis  
18 County, Kinney County, Real County -- we had some good  
19 folks here yesterday representing Real County -- and  
20 Terrell County have their offices temporarily closed.  
21 And, Senator Fraser, do you know how many people live in  
22 those counties? There are 47,000 people that live in  
23 those counties in my district that don't have a DPS  
24 office.

25 SEN. FRASER: Do you know how many in  
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1 those counties drive that have a license?

2 SEN. URESTI: No, I don't. Do you know,  
3 Senator?

4 SEN. FRASER: I don't, no. I have been  
5 out in those counties and I see people driving. I'm  
6 assuming they have a driver's license.

7 SEN. URESTI: Well, it makes it even more  
8 difficult if they don't have a driver's license and they  
9 need to get a driver's license or a photo ID to vote.  
10 How are they going to drive long distances in order to  
11 retrieve that -- or obtain that ID?

12 SEN. FRASER: Again, the data we've been  
13 shown is that people registered to vote -- and I guess I  
14 would like to look in your area -- but about 90 percent  
15 of the people that are coming in show their driver's  
16 license when they register to vote.

17 You know, yes, there's -- it looks like  
18 there's a lot of people or, you know, 47,000, but I'm

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19 assuming that the bulk of those, probably a lot of them  
20 have IDs.

21 SEN. URESTI: Well, that's an assumption,  
22 Senator Fraser, that you're making that I don't have the  
23 luxury of making on behalf of those 47,000 people. But  
24 in addition to that, Senator Fraser and members, there's  
25 another 70,000, another 70,000 constituents in my  
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1 district that have access to only partial or sporadic  
2 service; for example, Senator Fraser, the first Tuesday  
3 of each month from 9:00 to 4:00. So they have one day a  
4 month, members, to go and get an ID, and that's between  
5 the hours of 9:00 to 4:00.

6 Well, if you can't get off of work that  
7 one month -- that one Tuesday and that's the only day  
8 it's open, what are my constituents supposed to do,  
9 Senator Fraser?

10 SEN. FRASER: I think that's probably a  
11 question you would want to ask the DPS. Or, if you  
12 would like, I will yield to Senator Williams.

13 SEN. URESTI: But this isn't their bill;  
14 this is your bill, Senator Fraser.

15 SEN. FRASER: And that's the reason I  
16 bring in, you know, knowledgeable witnesses, expert  
17 witnesses that can answer these questions. We have  
18 someone from DPS that will be here. Or Senator  
19 Williams, that's in the area of his committee.

20 SEN. URESTI: So they're going to answer  
21 my question as to what should my constituents do if they  
22 can't get off of work that one Tuesday of the month in  
23 order to get their ID to vote? That's what you're  
24 saying, they're going to answer that question?

25 SEN. FRASER: You'll just have to ask  
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1 them.

2 SEN. URESTI: This is your bill, Senator  
3 Fraser. I'm asking you, because I need to go back to my  
4 district and tell them that they have to get a photo ID  
5 in order to vote. And their first question to me is  
6 going to be, "Well, Senator Uresti, you know that our  
7 DPS offices are closed," or "We have no DPS office in  
8 our county," or "It's only open on one Tuesday a month."  
9 What am I supposed to do, Sen. Uresti"?

10 SEN. FRASER: Again, the DPS will be here.  
11 You can outline the problem, and you can outline the  
12 problem with Senator Williams, and you're free to ask  
13 them those questions.

14 SEN. URESTI: Sen. Fraser, in addition to  
15 those counties that have no DPS offices, many of my  
16 constituents in several other counties are going to have  
17 to travel long distances in order to get an ID. For  
18 example, my constituents in Crockett County, Ozona, will  
19 have to travel 163 miles round trip to San Angelo to get  
20 to the nearest DPS office. And if you live in Sanderson

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21 in Terrell County, you will have to travel 170 miles  
22 round trip to get to Fort Stockton. If you live in  
23 Sierra Blanca in Hudspeth County, you have to travel  
24 176 miles to get to El Paso in order to get to the DPS  
25 office. Did you know that, Sen. Fraser?

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1 SEN. FRASER: I'm very aware of that,  
2 that, you know, the district I represented, there were  
3 bus routes that were 80 to 90 miles each way for kids to  
4 attend public school, because the people lived out in  
5 the country.

6 SEN. URESTI: And would you agree with me,  
7 then, that that's going to be a challenge for those  
8 folks?

9 SEN. FRASER: We're not changing the early  
10 voting mail-in ballot rules, and that will still be an  
11 option for people.

12 SEN. URESTI: So they don't need an ID to  
13 vote by mail?

14 SEN. FRASER: By mail? Again, you can ask  
15 the Secretary of State. We're not addressing the  
16 mail-in ballots. The Secretary of State will be here.  
17 Someone from their office, you can ask that question.

18 SEN. URESTI: Well, let me just mention a  
19 few more of my counties. If you live in Van Horn in  
20 Culberson County, you have to travel 200 miles round  
21 trip to Marfa, which is the nearest DPS office. If you  
22 live in Pecos, which is in Reeves County, you have to  
23 travel 143 miles to Fort Stockton. If you live in  
24 Rocksprings in Edwards County, it's 152 miles round trip  
25 to Del Rio, Sen. Fraser. And finally, if you live in

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1 Medina, which is in Hondo, if you live in Hondo, which  
2 is in Medina County, you have to travel 84 miles.

3 And so again my question; Sen. Fraser --  
4 if you can't answer it, just let me know -- what am I  
5 supposed to tell my constituents -- because this is your  
6 bill; it's not my bill -- how are they supposed to get  
7 their Texas ID if their DPS office is --

8 SEN. FRASER: Senator, if I were you, when  
9 the DPS comes up, I would ask them questions and say,  
10 "Is there a way that we could do something like a  
11 temporary van coming through to accommodate those  
12 people?" And if I were the senator from that area, that  
13 probably would be a question I would ask the DPS. But  
14 again, they're coming forward, and that's a question I  
15 think that is appropriate of the DPS of, you know, "How  
16 do we make sure that we accommodate those people?"

17 SEN. URESTI: Well, it's a great  
18 suggestion, Senator Fraser. But what if DPS says, "We  
19 can't do that. It's not in the budget, the \$2 million  
20 that we're being allocated"? So then what do I tell my  
21 constituents?

22 SEN. FRASER: Well, you're assuming the

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23 answer before you ask the question of the DPS.

24 SEN. URESTI: Well, you're assuming that  
25 they're going to say that they will be able to do it.

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1 SEN. FRASER: No. I'm assuming that the  
2 DPS is going to come up and you'll have the opportunity  
3 to ask them.

4 SEN. URESTI: Okay. So then let's assume  
5 the DPS spokesperson says, "Great idea that Senator  
6 Fraser has. We can do that," there's going to be a cost  
7 associated with that. Isn't that correct? That's not  
8 included in the fiscal note of \$2 million?

9 SEN. FRASER: Again, I'm not advised, I  
10 think the DPS could advise you on that, or  
11 Sen. Williams.

12 SEN. URESTI: Do we know when they're  
13 going to be available to answer or --

14 SEN. FRASER: I think they're on hand.  
15 And as soon as we complete these questioning, I think  
16 we'll going to bring -- you know, as soon as we start  
17 the -- well, I think that the plan -- I'm not speaking  
18 for the Chair, but I believe we're going to allow  
19 questions from members, then we're going to have invited  
20 guests. And then once we start the public testimony,  
21 they would be ready to come up, and I think they'll  
22 answer any questions you've got.

23 SEN. URESTI: Senator Fraser, let me ask  
24 you a few more questions, if I may, please. And I want  
25 to be clear. So as I understand it, in order to vote

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1 with your bill, if your bill passes, you can have a  
2 voter registration card and a Texas ID or a driver's  
3 license, and you're able to vote with both of those  
4 documents. Correct?

5 SEN. FRASER: Actually, you don't -- if  
6 you go in and you're on the voter roll and you have a  
7 driver's license, they'll allow you to vote, because I  
8 know that's -- you know, I do that now.

9 SEN. URESTI: So you don't need your voter  
10 registration card, is my real question? If you have a  
11 valid Texas ID or a valid Texas driver's license, then  
12 you do not need --

13 SEN. FRASER: I think probably if you'll  
14 ask the Secretary of State. But my understanding is  
15 that you just have to identify yourself with a photo.  
16 And if you're on the voter roll and you're at the  
17 correct voting location, you live in that precinct and  
18 you're on that roll and you show them your ID, I believe  
19 you'll be allowed to vote.

20 SEN. URESTI: And that's my question, but  
21 I want to be specific about it. So if I have a valid  
22 photo ID or a valid Texas driver's license and I'm on  
23 the rolls, then I do not need a voter registration card.  
24 Correct?

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25 SEN. FRASER: To my understanding, the

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1 answer is yes. But I still think I would ask that  
2 question of the Secretary of State.

3 SEN. URESTI: Well, I'm pretty sure that's  
4 correct. That's what I read. Then why do we need a  
5 voter registration card, then? Why are we going to need  
6 voter registration cards after your bill passes?

7 SEN. FRASER: Good question. Why don't  
8 you ask that of the Secretary of State. It might be  
9 a -- you could offer that as a cost-saving measure.

10 SEN. URESTI: But it's your bill, Senator  
11 Fraser. I mean --

12 SEN. FRASER: All my bill is addressing is  
13 the photo identification when you vote. You know,  
14 Carlos, when you walk in and they say, "Senator Uresti,  
15 you know, we'll need some identification," and even  
16 though you're on the roll, you're going to have to show  
17 a photo ID.

18 SEN. URESTI: And that's correct, and I  
19 agree with you, Senator Fraser. But the result will be,  
20 you do not need your voter registration card, then?

21 SEN. FRASER: That is my understanding.  
22 But, again, I would ask the Secretary of State.

23 SEN. URESTI: Okay. That's all the  
24 question I have for now, Mr. Chairman.

25 Thank you, Senator Fraser.

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1 CHAIRMAN DUNCAN: Thank you, Senator.  
2 Senator Gallegos.

3 SEN. GALLEGOS: Senator Fraser, the  
4 questions that you're being asked and are asking us to  
5 wait for resource witnesses, I'm concerned that we're  
6 not getting answers from the author of the bill. Now,  
7 Senator Huffman just showed us a box with testimony and  
8 questions and supposedly answers that were asked two  
9 years ago. And a lot of the questions that you're  
10 referring to that we get answers from resource witnesses  
11 weren't answered at that time.

12 I mean, we just want an assurance here  
13 that whatever was in that box that Senator Huffman had  
14 did not have all the questions answered. I heard what  
15 she told Senator Davis, but a lot of the questions that  
16 you're being asked today were the same questions that  
17 were asked two years ago and have never been answered.

18 SEN. FRASER: Senator, I stayed up very  
19 late last night reading the deposition of the questions  
20 that were asked, that you asked me last year, the  
21 answers. And I guess if you're concerned about that,  
22 maybe you should get that deposition and you read it and  
23 that way you can feel more comfortable about what was  
24 asked and what was answered. Have you read the  
25 deposition?

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1 SEN. GALLEGOS: There will be plenty of  
2 time for that. But I'm just asking you, as the author  
3 of the bill. You know, I mean, you are laying it out,  
4 and you're trying to explain it. And you're asking us  
5 to ask resource witnesses on questions, especially the  
6 questions that Senator Uresti had. And it concerns me  
7 that before we even, you know, lay it out and go forward  
8 with a bill, that the people that are here listening, at  
9 least they have the right to -- they leave, they have  
10 the right to know these questions, especially those  
11 questions that Senator Uresti just got through asking  
12 you. And it concerns me that we cannot get answers at  
13 the time that the bill is laid out, before we even go  
14 forward with the witnesses. And that just concerns me,  
15 that we're not getting answers.

16 SEN. FRASER: I think you can take a lot  
17 of comfort in the fact that we will not ask you to vote  
18 for the bill until we bring up an expert witness and you  
19 will be allowed to ask those question and get the answer  
20 you're looking for.

21 SEN. GALLEGOS: Well, I mean, we did that  
22 two years ago. And some of the questions that the box  
23 that Senator Huffman had still doesn't have answers in  
24 that box that she had that's going to be introduced as  
25 Exhibit No. 1.

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1 SEN. FRASER: Have you read all the data  
2 that was in the box?

3 SEN. GALLEGOS: I have not read it; I have  
4 not read it. But, you know, I would think that,  
5 especially some of the questions that I asked and I'm  
6 fixing to ask you, you know, that if those answers  
7 aren't in that box that Senator Huffman introduced as  
8 Exhibit No. 1. I just want to make a point that it  
9 concerns me that these questions these senators have  
10 about their districts are not being answered. I just  
11 wanted to make that point.

12 And on another question, Senator, on the  
13 fiscal note -- and I know that Senator Watson brought it  
14 up -- it says that it's \$2 million to implement. Now,  
15 here is my concern on that, is that Texas is ranked  
16 No. 2 nationally in this country as far as population.  
17 Missouri is ranked 19th. Yet, the numbers that I'm  
18 looking at on the costs that the Secretary of the State  
19 of Missouri on implementing -- and Missouri only has  
20 5.9; we have 25 million -- Missouri has 5.9 in  
21 population, and the Secretary of the State of Missouri  
22 is going it's going to cost \$6 million just to implement  
23 their voter ID program, and that's just the first year.  
24 The second year, another \$4 million.

25 Now, with only 5.9 in population, and I'm

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1 looking at Texas that has 25 million, now, what kind of  
2 methodology is the Secretary of State using in Missouri

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3 as opposed to the Secretary of State in Texas? To me,  
4 that math -- you know, I'm not an expert in math, but I  
5 can tell the difference between 5.9 and 25 million to  
6 implement a voter ID bill, you know, that obviously  
7 there's something wrong here in the numbers. Can you  
8 tell me the difference in 6 million for Missouri and  
9 2 million in implementing the cost of voter ID in Texas?

10 SEN. FRASER: I'm not a citizen of  
11 Missouri, so we don't have access to that information.  
12 And you and I have been in the Legislature a long time,  
13 and you're very aware that your fiscal note -- whenever  
14 you file a bill, you get a fiscal note with a bill, they  
15 look at the cost, and this is the cost that's been  
16 estimated.

17 SEN. GALLEGOS: You know, Senator, I'm  
18 concerned here that this number that has been laid out  
19 in this bill -- you know, and we do have -- and I don't  
20 know if the rules if we have the Ogden amendment on this  
21 bill where you're looking at one number and then all of  
22 a sudden, before we start implementing the bill, it's  
23 going to cost us \$30 million to implement the bill by  
24 the numbers -- if we use the formula being used by  
25 Missouri that has only 5.9 in population. Now, that

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1 really concerns me. \$30 million, Senator Watson could  
2 use that here and stop the closure of those Austin  
3 Independent School District schools that are being  
4 closed. They could use that \$30 million that I see as  
5 opposed to what I'm seeing as the formula in math that  
6 Missouri used.

7 Now, it concerns me that the fiscal note  
8 that's laid out in this bill is misleading, according to  
9 the other states that are using more money and less  
10 population to implement their voter ID bill. That  
11 concerns me, Senator. And, I mean, is there somebody  
12 that can answer that question for me, why it costs so  
13 little on a state that has 25 million in population as  
14 opposed to another state that has 5 million and it's  
15 triple the cost?

16 You know, I mean, that concerns me, and  
17 that should concern you, when you're given a number, and  
18 we're telling the people in the audience here, the  
19 taxpayers, it's only going to cost us \$2 million. And  
20 we have 25 million in population; Missouri only has  
21 5.9 million, and it's costing them \$6 million to  
22 implement voter ID. Now, you know, that really concerns  
23 me. And I don't want to mislead the public in any form  
24 or fashion that it's only going to cost us \$2 million to  
25 upstart voter ID when that is a misleading number. And

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1 that concerns me, Senator, and it should you. If this  
2 number is misleading, now who can answer that question  
3 for me?

4 SEN. FRASER: I think you're very aware of

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5 the fact that this number comes from LBB. I believe  
6 they probably called the Secretary of State and asked  
7 for that number. So if you have a concern about it,  
8 probably you should ask the LBB and/or the Secretary of  
9 State. I believe the Secretary of State is going to  
10 tell you there are HAVA funds that they're requesting  
11 that would possibly even eliminate that \$2 million.

12 SEN. GALLEGOS: Well, I mean, I heard you  
13 tell Senator Watson about the HAVA funds. I'm just  
14 saying on straight-up, straight-up implementation, that  
15 \$2 million as opposed to \$6 million in Missouri, you  
16 know, that's without HAVA funds, too. I'm saying that  
17 when you come down to it, if that number -- if, when the  
18 implementation starts, instead of \$2 million it's  
19 \$30 million, then, you know, I'm concerned.

20 I believe that the Ogden amendment should  
21 go on there and say, you know, if it's going to be over,  
22 over what you're showing on the fiscal note, that it  
23 shouldn't be implemented if it's going to cost that type  
24 of money. That's a lot of money; that's a lot of money  
25 to implement voter ID when you're just saying -- well,

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1 not you -- but the fiscal note on this bill is saying  
2 only two million bucks. Now, you know, that just  
3 concerns me, Senator. And I guess I'll ask that  
4 question when the proper resource witness comes up.

5 Senator Fraser, the other question I had  
6 was similar to Senator Uresti's question. Now, two  
7 years ago, I put maps up on one of my amendments where  
8 the City of Houston has no DPS offices within the 610  
9 loop. The City of Fort Worth, I believe -- let me see  
10 here. Let me look at my notes here.

11 The City of Fort Worth I think doesn't  
12 have any either inside -- what is that loop? 82,  
13 182? -- 81. And Dallas, Senator West, only has one --  
14 only has one inside the city, only has one DPS center  
15 inside the city. And it concerns me, if we're going to  
16 mandate Texans to get a photo ID and you have no place  
17 to send them to, especially inside the loop and  
18 especially those without transportation, and if they  
19 can't get to it on a bus route, to one of the DPS  
20 centers --

21 SEN. FRASER: Senator, if you have  
22 evidence that someone in your district has the inability  
23 to get a driver's license, I wish you would bring that  
24 forward.

25 SEN. GALLEGOS: I'm talking about your  
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1 bill that mandates a photo ID. And if we're going to  
2 mandate Texans, then we should at least allow them the  
3 opportunity to have places where they can get it, where  
4 they don't have to travel 150 miles, like Senator Uresti  
5 just said. That's my concern, especially the elderly  
6 that don't have any and they're going to have to get a

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7 photo ID, that that person is going to have to travel  
8 150 miles, even from their house inside the loop, those  
9 people that don't have cars and they have to do public  
10 transportation.

11 Now, I'm looking at the map in the City of  
12 Houston, the bus route where it takes them three buses  
13 just to get close to a DPS center from anywhere inside  
14 the 610 loop. That really concerns me, Senator, on  
15 this, and hopefully that -- Senator Fraser?

16 SEN. FRASER: I'm with you.

17 SEN. GALLEGOS: Hopefully that you will  
18 look at it and maybe in some of our amendments will take  
19 that into consideration. I'm just telling you, you  
20 know, what's in Houston, not in Horseshoe Bay where you  
21 live. And, you know, that is really a problem that we  
22 have, especially those of us that represent minority  
23 communities like Senator Uresti and me and others on  
24 this floor.

25 There is another issue, Senator Fraser,  
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1 that I wanted to ask you. On driver's license, you  
2 know, it says on a driver's license that's -- on a  
3 driver's license that's pulled from somebody for  
4 whatever reason, DPS gives you a temporary, and that  
5 temporary is good for about 40 days or in some cases  
6 when they've been stopped for a DWI or anything but  
7 still have not gone through the legal process, they are  
8 given a paper temporary license, and it says on that  
9 paper that this is used for identification purposes.

10 Now, I guess my question to you would be  
11 that if that is pulled -- and there's several thousands  
12 of drivers, of Texans, that are using this paper ID  
13 right now -- that if a driver's license is pulled for  
14 whatever reason, that that DPS certification, paper  
15 temporary license can be used as an ID to go vote.

16 SEN. FRASER: Senator, if you don't mind,  
17 I'm going to yield to Senator Williams on that question.  
18 If you don't mind, he'll answer that question for you.

19 SEN. WILLIAMS: Senator Gallegos, I had a  
20 similar question of what you have as I visited with the  
21 Department of Public Safety about this. And, in fact,  
22 it had been a while since I had renewed my license. And  
23 they now issue -- these temporary licenses actually have  
24 a photo on the license, and it would be valid under  
25 Sen. Fraser's bill as identification if you went to

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1 vote.

2 And, you know, in more detail, we could  
3 get the Department of Public Safety to give you some  
4 more detail on that. But now the temporary licenses  
5 actually have a photo on the paper license that you're  
6 referring to.

7 SEN. GALLEGOS: Well, Senator Williams,  
8 I'm showing that 98,000 drivers right now have temporary

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9 licenses without photo IDs.

10 SEN. WILLIAMS: Well, you know, I'm not  
11 advised about that. I think we ought to get the  
12 Department of Public Safety --

13 SEN. GALLEGOS: Well, I agree.

14 SEN. WILLIAMS: I'm told that these, you  
15 know, temporary licenses you used to get when you were  
16 in the process of renewing your licenses now have your  
17 ID on them, your photo.

18 SEN. GALLEGOS: Senator Williams, I  
19 understand what you just told me. But, you know, I've  
20 known some folks that have had their license pulled and  
21 have not gone through the process, and there is no photo  
22 ID. All they're given is the sheet of paper that I have  
23 right here that they're driving with, 98,184 that are  
24 driving with this paper right here, no photo ID.

25 And it says -- it says here -- well, I'm

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1 not going to read it to you. Just trust me; you can  
2 read it yourself. It says that this would be used for  
3 identification purposes.

4 SEN. WILLIAMS: Well, thank you, Senator  
5 Gallegos. And I'm glad that you raised this issue, and  
6 we ought to ask the Department of Public Safety to clear  
7 it up for us. Thank you.

8 SEN. GALLEGOS: That's why I brought it  
9 up, Senator Williams and Senator Fraser. That's being  
10 done on temporary suspended license, no photo ID. But  
11 on the face of this sheet that DPS has given out, it  
12 says that this is for identification purposes. I just  
13 wanted to point that out. I do have an amendment that I  
14 hope you will take, Senator, that alleviates almost  
15 100,000 that we know of right now.

16 SEN. FRASER: Have you turned that  
17 amendment in? If you get the amendments in so we get a  
18 chance to look at them --

19 SEN. GALLEGOS: Sure.

20 SEN. FRASER: -- I think there's a better  
21 chance for, you know, us to understand what you're  
22 trying to do. So if you have an amendment, I would ask  
23 you to turn it in.

24 SEN. GALLEGOS: Sure.

25 Thank you, Mr. Chairman.

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1 CHAIRMAN DUNCAN: Senator Davis.

2 SEN. DAVIS: Senator Fraser, will you  
3 yield for some questions, please?

4 SEN. FRASER: If you will allow me one  
5 second to get some better headsets on.

6 SEN. DAVIS: I was going to ask you if you  
7 could hear me.

8 (Laughter)

9 (Brief pause)

10 SEN. FRASER: I will now yield.

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11 SEN. DAVIS: Can you hear me okay, Senator  
12 Fraser?

13 SEN. FRASER: Right now I am.

14 SEN. DAVIS: All right. A couple of  
15 questions for you. You've talked earlier this morning  
16 about both the Supreme Court opinion in the Indiana case  
17 and also the Justice Department review of Georgia. Are  
18 you aware that in each of those, there were particular  
19 instances that made the acceptance of those particular  
20 laws different than yours might be interpreted by those  
21 same bodies?

22 SEN. FRASER: If you don't mind, we've  
23 got, you know -- Senator Huffman, I think, is prepared  
24 to, you know, answer legal questions. If you've got a  
25 question about a -- do you have specific examples --

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1 SEN. DAVIS: Well, I would --

2 SEN. FRASER: -- that you would like to --

3 and we also, I believe, are going to have someone from  
4 Indiana here this afternoon, and we're also going to  
5 have an invited -- an attorney that will address that.  
6 So if you have specific questions about that, that might  
7 be the appropriate place.

8 SEN. DAVIS: Well, I'll read to you from  
9 those in a moment. But let's start just by talking  
10 about what's required on the Texas voter registration  
11 application right now. Right now a person may put their  
12 driver's license number or their social security number  
13 on their registration application to become a voter in  
14 the State of Texas. Correct?

15 SEN. FRASER: You've got the data. And I  
16 think probably the best person to ask, and that's the  
17 Secretary of State.

18 SEN. DAVIS: Well, I have it right here.  
19 And there are some people who can't provide that  
20 information, and there's another opportunity for that  
21 person to attest to whom they are, to attest to the fact  
22 that they're a legal citizen and not a felon who would  
23 be prevented from voting. And I'm sure the Secretary of  
24 State probably has a number that shows to us -- and we  
25 will ask for this on the record today -- how many people

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1 fill out Section No. 9, the attestation clause, versus  
2 the people who are able to fill out Section 8, and  
3 what's the gulf between that. Are you aware what the  
4 gulf is between those two numbers?

5 SEN. FRASER: I believe I know the section  
6 you're talking about, but I actually would prefer you  
7 ask that of the Secretary of State's office.

8 SEN. DAVIS: Okay. But I'm asking you.  
9 Are you aware -- under your bill that you're proposing,  
10 are you aware of what the gulf is, the gap is between  
11 those two numbers, the people who are able to provide  
12 their driver's license or social security number versus

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13 those that fill out the attestation clause, because they  
14 don't have either?

15 SEN. FRASER: When you ask the Secretary  
16 of State that question, I will be listening very  
17 carefully to make sure that I hear what they say.

18 SEN. DAVIS: And would you agree that it's  
19 probably the case that if I fill out Section 9, the  
20 attestation clause, because I can't fill out Section 8  
21 with either a social security number or my driver's  
22 license number, that I will probably be impacted by a  
23 bill that's going to require what your bill requires in  
24 order for me to vote?

25 SEN. FRASER: Again, that would be a good  
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1 second of the Secretary of State.

2 SEN. DAVIS: Well, I'm asking you as the  
3 bill's author. Are you concerned that there will be an  
4 impact to those people who currently cannot fill out  
5 Section 8 but can only fill out the attestation clause  
6 in Section 9?

7 SEN. FRASER: And again, you're making a  
8 reference to Section 8 that -- you know, I'm sorry. I  
9 don't -- I'm not -- I don't know what you're referring  
10 to. The Secretary of State is the expert in that area.  
11 And when you ask that question, I'll be listening and  
12 will, you know, listen to the response.

13 SEN. DAVIS: Earlier you talked about the  
14 Executive Director from the Carter-Baker Commission, and  
15 you cited a statistic, that only 1.2 percent of  
16 Americans would be affected by a requirement that a  
17 photo ID be required. Correct?

18 SEN. FRASER: I did make that reference,  
19 yes.

20 SEN. DAVIS: Are you aware that that was  
21 limited to a study of only three states, and Texas was  
22 not one of them?

23 SEN. FRASER: Yes, because at that time  
24 the Carter-Baker was looking at the states that had  
25 issued a photo ID.

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1 SEN. DAVIS: And would you agree that it  
2 may be the case that if I live in one of those three  
3 states and it's easier for me to get a driver's license  
4 in that state, then I may have a lower percentage of  
5 citizens who don't have a photo ID than another state  
6 might have where it's more difficult to get a driver's  
7 license?

8 SEN. FRASER: I'm not advised.

9 SEN. DAVIS: Are you aware that even in  
10 those states, in the 1.2 percentage number, there was a  
11 disparate impact that was found on elderly and women and  
12 African-Americans in terms of people who actually had  
13 the eligible photo ID that's counted in that percentage?

14 SEN. FRASER: I'm not advised.

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15 SEN. DAVIS: Does it concern you at all  
16 that the bill that we are looking at today, the bill  
17 that you filed, might have a disparate impact on women,  
18 minorities and senior citizens, possibly disabled people  
19 in the State of Texas?

20 SEN. FRASER: The bill that we're filing  
21 today I believe will be approved by the U.S. Supreme  
22 Court, and also the bill in Georgia was precleared by  
23 the Justice Department. So I believe our bill will  
24 comply with both of those.

25 SEN. DAVIS: Okay. Well, I'm going to

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1 read to you from the Supreme Court opinion, the U.S.  
2 Supreme Court opinion when it was reviewing the Indiana  
3 law.

4 They acknowledged that there is evidence  
5 in the record, in fact, of which we may take judicial  
6 notice that indicates that a somewhat heavier burden may  
7 be placed on a limited number of persons by virtue of  
8 the photo ID requirement. They include elderly persons  
9 born out of state, persons who, because of economic or  
10 other personal limitations, may find it difficult either  
11 to secure a copy of their birth certificate or to  
12 assemble the other required documentation to obtain a  
13 state-issued ID, homeless persons and persons with a  
14 religious objection to being photographed.

15 "If we assume, as the evidence suggests,  
16 that some members of these classes were registered  
17 voters when the Indiana law was enacted, the new  
18 identification requirement may have imposed a special  
19 burden on their right to vote. The severity of that  
20 burden is, of course, mitigated by the fact that if  
21 eligible voters without photo ID may cast provisional  
22 ballots, that will ultimately be counted."

23 Are you aware that in the State of  
24 Indiana, I can cast a provisional ballot, and the  
25 Supreme Court made its decision in terms of whether the

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1 burden was constitutionally acceptable, based on the  
2 fact in Indiana, I can cast a provisional ballot, and if  
3 I attest to the fact that I'm unable to pay for the cost  
4 of getting the underlying documents to receive a photo  
5 ID, that I do not, in voting my provisional ballot, have  
6 to show a photo ID?

7 SEN. FRASER: Senator, my observation is  
8 that what you've read from the Supreme Court opinion is  
9 a portion of it, but it's a snippet. And it also  
10 continues to say that these do not present an undue  
11 burden for the person to vote.

12 SEN. DAVIS: That's correct. They said  
13 they did not believe that it created a constitutionally  
14 prohibited burden, based on the fact that voters in the  
15 State of Indiana have the opportunity to vote a  
16 provisional ballot even if they don't have a photo ID,

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17 if they can show that they were unable to get one,  
18 either because of their circumstances as an elderly  
19 person or because they're indigent. Does your bill  
20 provide a special exception for people under those  
21 circumstances to vote a provisional ballot?

22 SEN. FRASER: The bill that I'm moving  
23 forward I believe will be approved by the U.S. Supreme  
24 Court and will be precleared by the Department of  
25 Justice.

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1 SEN. DAVIS: Okay. Let's look at the  
2 things that are required in your bill in terms of a  
3 photo ID. And I appreciate what you said earlier. I  
4 think it's true. I think if you ask anybody on the  
5 street that you might walk up to at this moment in time  
6 whether they think it's a good idea for someone to show  
7 a photo ID in order to vote, they would probably agree.  
8 What they might not understand in agreeing with that,  
9 though, are what the requirements are going to be in the  
10 State of Texas in order for them to comply with that  
11 particular requirement, and they also might not  
12 appreciate the challenge and the difficulty that some  
13 people may have in supplying that.

14 SEN. FRASER: Senator, this is not rocket  
15 science. The people of your district understand very  
16 clearly that when they walk into that voting booth, they  
17 have to show a photo ID proving they are who they say  
18 they are. The people in Fort Worth, that area, I have  
19 the polling data -- I believe the number is about --  
20 around 90 percent. And of that, that's Republicans and  
21 Democrats. So I believe the people that elected you,  
22 sent you down here, have said, "We believe that when you  
23 go in to vote, you should show identification to prove  
24 you are who you say you are." It's a very, very simple  
25 concept.

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1 SEN. DAVIS: Are you aware that in the  
2 Indiana law and also in the Georgia law, people are  
3 allowed to come and vote with a state-issued student ID  
4 if they're attending a state university?

5 SEN. FRASER: I'm not advised.

6 SEN. DAVIS: And your bill does not allow  
7 that kind of a photo ID to be used. Is that correct?

8 SEN. FRASER: We have four forms of ID  
9 that we have laid out as acceptable. Those are all  
10 recognized acceptable forms of identification that we  
11 have recommended.

12 SEN. DAVIS: And it does not include that,  
13 for the record. Are you also aware that in the Indiana  
14 law and in the Georgia law, the ID can be expired and  
15 still be utilized, but under the requirements in your  
16 bill, that cannot occur?

17 SEN. FRASER: You know, I think our belief  
18 is that someone should have a valid ID that has not

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19 expired. "Expired" implies it is not valid, and we in  
20 Texas believe you should have a valid ID.

21 SEN. DAVIS: What will I do if my driver's  
22 license expires the day before I go to vote and I'm not  
23 aware of it until I show up at the polling place?

24 SEN. FRASER: And I would ask you, what  
25 would happen if you were driving to the polling place  
0097

1 with an invalid driver's license? What would happen?

2 SEN. DAVIS: I would get a ticket, but I  
3 wouldn't be denied my constitutional right to vote as a  
4 legal citizen of the United States.

5 SEN. FRASER: You would not be denied your  
6 right to vote. Under this law and under this bill, as  
7 you know, if you walk in with an invalid driver's  
8 license, you would be allowed to vote. It would be a  
9 provision vote, and you would be allowed six days to go  
10 back to the place that issues driver's license, get a  
11 valid license and come back, and your vote would be  
12 counted.

13 SEN. DAVIS: Well, we had a conversation  
14 about that earlier in terms of how difficult and  
15 challenging -- for some people it actually is -- to be  
16 able to comply with that requirement. But let me ask  
17 you for a moment, if I bring in a state-issued Texas  
18 driver's license and it expired 30 days ago or 60 days  
19 ago or a year ago, how does that fail to prove that I'm  
20 the person on the card, simply because it has expired?

21 SEN. FRASER: Well, I would ask you the  
22 same question. If your driver's license expired 30 days  
23 ago, is it acceptable to the patrolman that just stopped  
24 you? It's expired.

25 SEN. DAVIS: I'm asking you the question.  
0098

1 The reason that we are advocating or you are advocating  
2 for photo ID is so that the person who is receiving my  
3 ballot can verify that I am the person casting it.  
4 Correct?

5 SEN. FRASER: Yes.

6 SEN. DAVIS: And if my driver's license is  
7 expired but it's a state-issued driver's license and it  
8 has my name and it has my picture on it and my name  
9 matches what's on the registrar's -- the precinct rolls,  
10 how does that fail to prove that I'm who I am?

11 SEN. FRASER: I think we go back to the  
12 word "valid," do you have a valid Texas driver's  
13 license?

14 SEN. DAVIS: How does it fail to prove  
15 that I am who I am?

16 SEN. FRASER: You don't have a valid Texas  
17 driver's license.

18 SEN. DAVIS: And as I said earlier, in  
19 Georgia and in Indiana, under the laws that were deemed  
20 acceptable by the Supreme Court and the courts in

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21 Georgia received preclearance by the Department of  
22 Justice, each of those allows some acceptance of expired  
23 IDs.

24 I want to talk a little bit about how  
25 difficult it is, because I really think every one of us  
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1 in this room needs to appreciate the burden that people  
2 have when they're being asked to supply some of the  
3 documentation that's required in your bill. And I've  
4 put together a little chart that I just want to go over  
5 very quickly. I won't belabor the point.

6 Can you bring it closer over here, Dan, so  
7 I can actually point at it?

8 Thank you.

9 Now, each of us, whether we're in the  
10 Senate or the House of Representatives in the State of  
11 Texas, we each bring unique backgrounds and perspectives  
12 to the table. And because of our unique backgrounds and  
13 perspectives, we're able to represent people in ways  
14 that hopefully contribute to a better understanding for  
15 each of us in terms of how we can best serve them.

16 Senator Fraser, I came from a fairly  
17 challenged background before I arrived on the floor of  
18 the Texas Senate. I had the opportunity to receive an  
19 incredible education that ultimately allowed me the  
20 privilege of standing here and having a conversation  
21 with you today. But there was a time when I was  
22 indigent, there was a time when I was a single mother  
23 and I was working a full-time job during the day in  
24 Dallas, from which I had to leave my house at 6 o'clock  
25 in the morning every morning to arrive at, and I worked  
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1 a part-time job four nights a week waiting tables.

2 If I had been required during that point  
3 in time to show some of the ID requirements that are  
4 being proposed under your bill, I have to admit to you  
5 that I would have been quite challenged in being able to  
6 accomplish it. I had gotten divorced, so my name was  
7 different on my state ID than was on the registration  
8 rolls. And so because of that, I would have had to go  
9 through the process of trying to get a new state ID.  
10 And, honestly, with my schedule, it would have been  
11 fairly impossible for me to achieve it.

12 I think it's pretty easy for us to stand  
13 on the Senate floor where we are today and the shoes  
14 we're in today and say, "Why should that be a problem?"  
15 But for people who have to take time off of work and for  
16 whom that's an unaffordable idea, it can be a very, very  
17 real problem.

18 The other issue, in trying to receive a  
19 state ID in the State of Texas is, it's almost a  
20 circular process. In order to get the state ID, you  
21 have to have underlying ID that provide you with the  
22 opportunity to get that ID. And I know we're talking

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23 right now in the State of Texas about giving free ID to  
24 people who come in to the Department of Motor Vehicles  
25 and ask for that ID, based on the fact that they want to

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1 vote.

2 But if I can't provide underlying  
3 documentation, I'm going to have to go get that  
4 underlying documentation, and it's going to cost me  
5 money, and I'm concerned about that person. I'm  
6 concerned that if I need a birth certificate in the  
7 State of Texas, it's going to cost me \$23. I'm also  
8 concerned that I might have a really hard time getting  
9 that birth certificate. And if you look to see what you  
10 can show in order to get it, you see the circularity of  
11 the problem. You can show a driver's license or you can  
12 show a state ID. Well, the reason I need the birth  
13 certificate is so I can get my driver's license or my  
14 state ID.

15 In order for me to get a birth  
16 certificate, I can show a social security card as one of  
17 my underlying two documents that are required. But in  
18 order to have a social security card, I've got to have a  
19 driver's license or a state ID, so it puts me right back  
20 at my original problem. To get my driver's license or  
21 my state ID, I might be able to use a passport. But in  
22 order to use my passport, I'm going to have to have a  
23 birth certificate, but I couldn't get my birth  
24 certificate because I didn't have a driver's license or  
25 a state ID to get my birth certificate.

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1 You see the problem? It's not just the  
2 problem of the time one has to take off of work in order  
3 to comply with this requirement, it's not just a problem  
4 of how much money it costs. Sometimes it can be a  
5 problem of almost a near impossibility for a person to  
6 be able to provide the underlying documentation in order  
7 for them to go and vote.

8 And my concern about that is, we will  
9 disparately impact persons who find greater challenges  
10 in fulfilling the underlying documentation requirements;  
11 and, yet, we haven't provided anywhere in the bill, as  
12 was done in Indiana, a provisional opportunity for  
13 someone to come and cast a ballot and say that they were  
14 unable to comply with the requirements for a photo ID.  
15 Why is that?

16 SEN. FRASER: Senator, I appreciate the  
17 story you just gave. And I would advise you of the  
18 other 31 members here. There's a lot of people that can  
19 tell like stories. When I was 16 and working on a  
20 potato picker in California or when I was 17 working  
21 picking cucumbers in Rising Star or when I was 18,  
22 picking cotton in West Texas, I figured out a way to  
23 have time after work to go get a driver's license,  
24 because I really wanted one. I worked that into the

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25 schedule, as I think a lot of people do.

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1 I think what I would ask you is to give  
2 evidence, either in Indiana or Georgia, of a single  
3 person that has come forward and said that they were  
4 denied their ability to vote because of these  
5 provisions, because in my knowledge, there has not been  
6 a single person that came forward.

7 SEN. DAVIS: And again, you know, when you  
8 turn to those two laws, they actually provide some  
9 exceptions that are not provided in your bill, and so  
10 the instances in which people were excluded or  
11 prohibited from exercising their constitutional right to  
12 vote won't have been challenged in the same way as being  
13 proposed for the State of Texas under this particular  
14 bill.

15 I want to ask you a question about what  
16 happens, as a woman, if I come in to vote and I have my  
17 state ID, and the name on my state ID is different than  
18 my name on the registrar's certificate, because I've  
19 either married or divorced. What will happen in that  
20 situation?

21 SEN. FRASER: The question has already  
22 been asked twice. We will have someone here from the  
23 Secretary of State and the DPS that can answer that  
24 question for you.

25 SEN. DAVIS: Okay. Back to the fiscal

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1 note, Senator Fraser. The fiscal note --

2 SEN. FRASER: We've also talked about that  
3 a couple of times.

4 SEN. DAVIS: Yes, we did, but I want to  
5 ask this question. The fiscal note, of course,  
6 described the methodology under which the \$2 million  
7 figure was compiled, and it specifically states that it  
8 left out the cost for training poll workers and election  
9 officers. It specifically states that it left out any  
10 cost for coordinating voter registration drives. It  
11 specifically states that it left out the costs of  
12 providing the ID cards, all of that because it is an  
13 unknown number.

14 SEN. FRASER: Well, you're making an  
15 assumption, and this amount was brought forward by LBB  
16 after they talked to the secretary of the State. The  
17 Secretary of State, I think, they can answer that  
18 question. But I disagree that it's unknown. I believe  
19 the Secretary of State and LBB knew exactly what they  
20 were doing when they brought it forward, because that's  
21 their job.

22 SEN. DAVIS: Well, it literally says that.  
23 It says, "The fiscal impact of the revenue loss from the  
24 prohibition of DPS to collect a fee is unknown because  
25 it is not known how many people would make such a

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1 request."

2 SEN. FRASER: And that is a correct  
3 statement.

4 SEN. DAVIS: And it also says that the  
5 cost of coordinating voter registration drives or other  
6 activities designed to expand registration is also  
7 unknown, and it also says that the cost for  
8 responsibilities, the training for people who would be  
9 responsible for implementing this is unknown.

10 Now, if I file a bill this session and I'm  
11 challenged, based on the fiscal impact of the bill,  
12 clearly this session more than any other will be very,  
13 very concerned about that. And the LBB has put a  
14 statement on it that they really don't know what the  
15 cost is, but intuitively we understand there's going to  
16 be a cost. We'll probably have a conversation about  
17 that. Right?

18 SEN. FRASER: And I think the conversation  
19 you should have should be the Secretary of State in  
20 discussing the HAVA funds that the federal government  
21 has provided to both Indiana and Georgia for the  
22 implementation of their law that we believe will be  
23 approved for that, but it has not been approved, because  
24 HAVA has clearly said the bill has to be passed before  
25 they could pass judgment on whether those funds could be  
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1 used. That amount of money is setting in the Secretary  
2 of State's office now, and I think that would be a good  
3 question to ask them.

4 SEN. DAVIS: Let me ask a question about  
5 the bill itself. I'm a little confused about a section.  
6 This is on Page 5. I'm reading from Section 8,  
7 Subsection (a). "If the voter's address is omitted from  
8 the precinct list under Section 18.005(c), the officer  
9 shall ask the voter if the voter's residence, if listed,  
10 on ID presented by the voter under Section 63.001(b) is  
11 current and whether the voter has changed residence  
12 within the county." What if the answer is "No," what is  
13 the election worker to do at that point?

14 SEN. FRASER: That's a perfect question to  
15 ask the Secretary of State.

16 SEN. DAVIS: It's your bill, though,  
17 Senator Fraser, and the language is here. And there is  
18 no guidance for someone -- if we were to vote on a bill  
19 like this, how are we to know how a situation like that  
20 would be handled if it's not addressed in the bill?

21 SEN. FRASER: Senator, I'm sure you're  
22 aware through -- the past session, you were here.  
23 You're reading current law. There is one change there  
24 where we insert "presented by the voter under Section  
25 63.001," which is the description I think of the photo  
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1 ID. But basically that is current law, and I think it  
2 would be a good thing to ask the Secretary of State.

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3 Everything you've read is current law.

4 SEN. DAVIS: Well, it's not current law,  
5 because it changes it from the difference being on the  
6 voter registration certificate versus being on the  
7 person's ID. What I'm concerned about is that if I come  
8 in with an ID and my address has changed and I have the  
9 correct address on the precinct list that's different  
10 than what's on my ID, that a poll worker might actually  
11 reject my opportunity to vote, because the address on my  
12 ID is showing differently than is showing on the  
13 precinct list.

14 SEN. FRASER: And the good thing about  
15 that is, these HAVA funds that we're going to request  
16 will also train poll workers to make sure they  
17 understand it. The ruling would be made by the  
18 Secretary of State, and they will train them how to do  
19 that, and I feel very comfortable that you would get to  
20 vote.

21 SEN. DAVIS: Well, I'm glad you feel very  
22 comfortable, Senator Fraser. I remain very, very  
23 concerned about the number of people under the very  
24 severe restrictions that are imposed by the bill you  
25 have proposed. I'm very concerned about the number of  
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1 people who may be impacted by it. And I understand and  
2 agree with you, that assuring that voter fraud is not  
3 occurring is very, very important, and it's a  
4 conversation we should be having and a cure we should  
5 all attempt to find.

6 But in the process, I'm very afraid that  
7 we're going to wind up disenfranchising people who  
8 currently are legal citizens in the State of Texas who  
9 have the legal opportunity to vote and are going to be  
10 denied the right for that right under your bill as it's  
11 proposed today.

12 SEN. FRASER: And I believe our bill will  
13 be approved by the U.S. Supreme Court and approved in  
14 Section 5 by the Department of Justice.

15 Thank you.

16 SEN. DAVIS: Thank you.

17 CHAIRMAN DUNCAN: Senator West.

18 SEN. WEST: Thank you very much,  
19 Mr. Chairman. I would like to ask the author a couple  
20 of questions.

21 Senator Fraser, good morning, sir.

22 SEN. FRASER: I think we commented about  
23 the Barry White voice last year. I was reading the  
24 deposition.

25 SEN. WEST: That was actually Billy Ocean,  
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1 which both of us like.

2 SEN. FRASER: Both of us do like. I  
3 agree.

4 SEN. WEST: Now, we're not going to have

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5 any unfunded mandates on counties, are we? This bill  
6 would not occasion any unfunded mandates on counties.

7 SEN. FRASER: This bill?

8 SEN. WEST: Yes, this bill that you're  
9 proposing. The counties will not have to pick up any of  
10 this cost -- is that correct -- because that would be an  
11 unfunded mandate? And I know you are not for unfunded  
12 mandates. Right?

13 SEN. FRASER: I am not for -- I'm opposed  
14 to unfunded mandate, but I'm not advised of whether it  
15 would be --

16 SEN. WEST: So you can tell counties, you  
17 can tell all county officials in the sound of my voice  
18 and your voice that there will be no unfunded mandates  
19 in this bill and counties will not have to spend any  
20 money that they don't have right now to implement this  
21 particular bill. Correct?

22 SEN. FRASER: I had my largest county,  
23 Bell County, in my office last week, and I told Judge  
24 Burrows at that time that I'm opposed to unfunded  
25 mandate and, you know, we'll do everything we can to

0110  
1 keep them off the counties.

2 SEN. WEST: So you're telling county  
3 officials there are no unfunded mandates coming from  
4 this bill?

5 SEN. FRASER: I didn't say that.

6 SEN. WEST: So there may be unfunded  
7 mandates coming from this bill?

8 SEN. FRASER: Not advised.

9 SEN. WEST: So let me back up. And I want  
10 to pursue this just a minute now. You philosophically  
11 are not for unfunded mandates. Right?

12 SEN. FRASER: That's a correct statement.

13 SEN. WEST: That is a correct statement.  
14 And you, by your action in previous legislatures, have  
15 made certain that you have not passed any bills that  
16 would provide for unfunded mandates on the counties.  
17 Right?

18 SEN. FRASER: I have made an effort not to  
19 vote, if possible.

20 SEN. WEST: Okay. Now, in this particular  
21 bill, it is your objective to make certain that there  
22 are no unfunded mandates on any county in this entire  
23 state. Is that correct?

24 SEN. FRASER: I'm not advised.

25 SEN. WEST: You're not advised as to what

0111  
1 your objective is?

2 SEN. FRASER: No. My philosophy is that I  
3 do everything I can trying to keep any unfunded  
4 mandates. I'm not advised of how they would be  
5 impacted.

6 SEN. WEST: All right. So you can't tell

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7 county officials that there are not unfunded mandates in  
8 this bill?

9 SEN. FRASER: Well, as you know, a lot of  
10 times there's unintended consequences, and we don't know  
11 until it's passed, the impact.

12 SEN. WEST: It was your bill, though.

13 This is your bill. You don't know --

14 SEN. FRASER: My bill says that --

15 SEN. WEST: I'm just --

16 SEN. FRASER: -- when you walk into the --

17 SEN. WEST: I'm just trying to find out  
18 whether or not county officials are going to have to  
19 pick up any of the cost in terms of putting this bill  
20 into effect. You tell me. Tell the county officials  
21 that there are no unfunded mandates in this bill. Tell  
22 them.

23 SEN. FRASER: I'm not advised.

24 SEN. WEST: So what you're telling county  
25 officials, that you're not advised as to whether or not  
0112

1 there is any unfunded mandates in this bill. Correct?

2 SEN. FRASER: I'm sure that there's  
3 probably an expert witness coming. You probably can ask  
4 a question. Someone, or someone may be coming to  
5 testify about that, but --

6 SEN. WEST: All right. Let's talk about  
7 expert witnesses. Did you ask for the fiscal note in  
8 this bill?

9 SEN. FRASER: I'm sorry?

10 SEN. WEST: Did you ask for the fiscal  
11 analysis in this bill -- the fiscal note?

12 SEN. FRASER: No. I think the committee  
13 chairman did. I believe the -- there is a fiscal note  
14 requested. I did not request it.

15 SEN. WEST: Did you review the fiscal  
16 note?

17 SEN. FRASER: The fiscal note was handed  
18 to me. I read the fiscal note. I guess reviewing it,  
19 yes, I read it.

20 SEN. WEST: Okay. Go to the local  
21 government impact section of it, Page 2 of 3, down at  
22 the bottom.

23 SEN. FRASER: Yes.

24 SEN. WEST: Okay. Second paragraph,  
25 "According to Texas Association of Counties, Tarrant  
0113

1 County anticipated a one-time cost to reprint  
2 provisional balloting materials and provides new  
3 notices, of \$8,000. Bexar County stated that due to  
4 limited space on current registration certificate, large  
5 cards would be necessary, resulting in additional costs  
6 for cards, printing and postage of \$381,000," et cetera.

7 Is that a cost that is going to be picked  
8 up by the state or is that going to be a cost that's

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9 going to be occasioned by the counties?

10 SEN. FRASER: Senator, you're on the  
11 Finance Committee. You helped with proposing the draft  
12 bill, and then you will be voting on the bill coming out  
13 of the committee that you send to us, so I think you  
14 would be better to answer that. My job is to pass the  
15 bill. The implementation of the bill, then, and the  
16 cost will have to be considered by the Finance  
17 Committee.

18 SEN. WEST: So let me make sure that I  
19 understand this, then. The answer to that question is,  
20 you don't know. So if we don't appropriate that  
21 money -- that being the Legislature doesn't appropriate  
22 that money -- then that's an unfunded mandate. Correct?

23 SEN. FRASER: My job is to bring the bill  
24 forward, put it before the membership, advise what the  
25 bill will do. And then if there's a fiscal impact --

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1 SEN. WEST: Advise what the bill will do?

2 SEN. FRASER: The bill is going --

3 SEN. WEST: Is that your job? Didn't you  
4 just say part of your job is to advise what it will do?

5 SEN. FRASER: Yes. What it's going to do  
6 is that when you walk into --

7 (Simultaneous discussion)

8 SEN. WEST: So I'm asking you --

9 SEN. FRASER: -- in Oak Cliff and want to  
10 vote, you're going to have to show your smiling face --

11 SEN. WEST: And I'm asking what it will  
12 do. I'm asking what it will do in terms of unfunded  
13 mandates right now.

14 SEN. FRASER: Not advised about unfunded  
15 mandates.

16 SEN. WEST: Not advised. So where will  
17 the counties get this money under the local impact --

18 (Simultaneous discussion)

19 SEN. FRASER: And I think that's going to  
20 be your responsibility as a member of Finance.

21 SEN. WEST: Do you know -- then let me ask  
22 this question. Do you know where the county will get  
23 the money from, counties will get that money from?  
24 Under the local government impact, do you know where the  
25 counties will get that money from?

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1 SEN. FRASER: You're asking me a question.

2 No, I do not know --

3 SEN. WEST: Okay. Thank you. Now, as it  
4 relates to -- this bill, plus the costs that we don't  
5 know, you've said repeatedly that it's going to cost at  
6 least \$2 million. And we know, based on the fiscal  
7 note, that there's still some undetermined cost.

8 SEN. FRASER: I have not said one time  
9 that it's going to cost \$2 million. I've said there is  
10 a fiscal note that has been projected, but there are

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11 dollars in the HAVA fund, federal funds, that are  
12 setting in the Secretary of State's office that far  
13 exceed that number. And I think the Secretary of State  
14 probably will let us know what that is. So there is a  
15 pot of money there that we believe will help offset some  
16 of the associated expenses. I do not believe the cost  
17 will be \$2 million.

18 SEN. WEST: Now, the HAVA funds, is that  
19 general revenue or is that federal funds?

20 SEN. FRASER: Federal funds.

21 SEN. WEST: Okay.

22 SEN. FRASER: And I believe I'm right, but  
23 again, I would ask that question of the Secretary of  
24 State if I were you.

25 SEN. WEST: Okay. Well, as it relates to

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1 general revenue, now, as I understand and as I've used  
2 the term "general revenue" over the last 17 years I've  
3 been here -- and maybe Senator Ogden or someone else on  
4 the Finance Committee can correct me if I'm wrong --  
5 general revenue basically means state funds -- right --  
6 monies that we get from state --

7 SEN. FRASER: You are the member of  
8 Finance.

9 SEN. WEST: Well, let me -- general  
10 revenue -- okay. Well, then, take my word for it;  
11 that's what it means. It means monies that we receive  
12 from tax revenues in the State of Texas, not HAVA funds  
13 but revenues from taxes and revenues that are -- and  
14 sources of revenues that we get from citizens in the  
15 State of Texas. And that's what this deals with, it is  
16 specifically general revenue-related funds, not HAVA  
17 funds. HAVA funds are federal funds. So let's make  
18 sure -- in terms of my questions, that's the distinction  
19 that I'm making.

20 SEN. FRASER: Well, the distinction you're  
21 not making is that if the HAVA funds are not available,  
22 yes, there would be a cost to the state. But if HAVA  
23 funds are available, it would offset that cost to the  
24 state.

25 SEN. WEST: Where do you see that in this

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1 fiscal note?

2 SEN. FRASER: It's not in that. That's  
3 conversation --

4 SEN. WEST: Then how are you making that  
5 statement, if it's not in this fiscal note? There's  
6 nothing in the fiscal note that says that.

7 SEN. FRASER: Mr. Chairman?

8 CHAIRMAN DUNCAN: Senator Fraser.

9 SEN. FRASER: Could I please enter into  
10 the record -- this is information coming that is  
11 addressing the questions he's talked about addressing  
12 HAVA. I would like to have this added as an exhibit,

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13 please.

14 CHAIRMAN DUNCAN: Bring it forward to the  
15 Secretary, if you would, and we'll need to --

16 SEN. WEST: May we approach on it, Your  
17 Honor -- Your Honor -- may we approach on it,  
18 Mr. Chairman?

19 CHAIRMAN DUNCAN: You may.  
20 (Brief pause)

21 SEN. FRASER: Mr. President?

22 CHAIRMAN DUNCAN: Senator Fraser, if  
23 you'll hold on just a minute. I'm going to allow --  
24 we're already premarked a couple of exhibits. And so  
25 just in order to keep the record flowing correctly, I'm  
0118

1 going to recognize Sen. Van de Putte at this point to  
2 introduce a motion in writing.

3 Senator Van de Putte.

4 SEN. VAN de PUTTE: Thank you,  
5 Mr. Chairman. And thank you, Chairman, and the bill  
6 author, to yield so that I can move that all actions  
7 taken by the Senate on the 81st Legislature on Senate  
8 Bill 362, as contained in the official Senate Journal,  
9 be included in the record as Exhibit 2. The Senate  
10 Journal excerpts shall include motions, remarks, written  
11 responses, exhibits and any other material directly  
12 related to Senate Bill 362.

13 Mr. Chairman, I move this motion in  
14 writing.

15 CHAIRMAN DUNCAN: Members, you've heard  
16 the motion. Is there any objection?

17 The Chair hears none. Exhibit 2 will be  
18 received into the record.

19 (Exhibit No. 2 marked and admitted)

20 CHAIRMAN DUNCAN: Now, Senator Fraser,  
21 you're recognized on Exhibit 3, I believe.

22 SEN. FRASER: And, members, just to  
23 clarify, what we're entering here is the answer to the  
24 question that we've been discussing. It is a letter  
25 from the Secretary of State, Hope Andrade, saying that  
0119

1 the \$2 million we're discussing, there is sufficient  
2 HAVA funds allocated to voter education and poll worker  
3 training that would cover this expense that is  
4 available.

5 Also, in addition to your question, we  
6 have been advised by other counties saying they do not  
7 expect more than a nominal cost for counties, existing  
8 staff and resources should be sufficient to implement  
9 the new law.

10 And I would request this be entered into  
11 the record.

12 CHAIRMAN DUNCAN: Members, Senator Fraser  
13 sends up Exhibit No. 3. It will be received into the  
14 record.

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15 (Exhibit No. 3 marked and admitted)

16 CHAIRMAN DUNCAN: Senator Fraser, you  
17 still have the floor. Senator West, Senator has yielded  
18 to you for questions.

19 And before we do that, before we do that,  
20 let me make an announcement. We typically adjourn 30  
21 minutes ahead of session in order to allow the sergeants  
22 and secretary to prepare for the Senate session. So at  
23 10:30, I'll recognize a member on a motion to rise and  
24 report progress. So if you can watch the clock. It  
25 doesn't mean we're going to cut you off, it just means  
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1 at that point in time, we'll have to cease until we  
2 finish the Senate session.

3 SEN. WEST: Thank you, Mr. Chairman.  
4 Senator Fraser?

5 SEN. FRASER: Yes.

6 SEN. WEST: Okay. So you've admitted this  
7 as part of the record. So these are federal funds and  
8 not general revenue. Is that correct?

9 SEN. FRASER: No. Those are federal  
10 funds, as I understand it, yes.

11 SEN. WEST: It's not general revenue?

12 SEN. FRASER: Yes.

13 SEN. WEST: Okay. And the certainty of it  
14 is still up in the air. Based on this document from the  
15 Secretary of State, they still have to confirm that the  
16 funds can, in fact, be used for this particular purpose?

17 SEN. FRASER: That is correct, and that's  
18 what I advised earlier, is that HAVA has said until the  
19 passage of the bill, they would not rule, but the funds  
20 have been used before in Indiana and Georgia, and it is  
21 expected that we will be able to use them here.

22 SEN. WEST: Okay. Now, you had made  
23 mention also that you've talked to some other counties  
24 and that there won't be any unfunded mandates on those  
25 counties?

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1 SEN. FRASER: You didn't read the rest of  
2 the fiscal note, is that Comal County reported the costs  
3 associated with the provision would be absorbed within  
4 existing revenues. You gave one example, but I think  
5 most of the counties expect this to be a nominal cost  
6 and that they have existing staff and resources --

7 SEN. WEST: And then --

8 SEN. FRASER: To handle this.

9 SEN. WEST: I'm sorry. You said most of  
10 the counties. You've given examples of three. You said  
11 most of the counties. Is --

12 SEN. FRASER: Do you have evidence from  
13 others? I --

14 SEN. WEST: There's 254 counties, and  
15 you've just made a statement that most of the counties  
16 have said they can absorb it within their normal --

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17 SEN. FRASER: I said I do not expect it to  
18 be more than a nominal cost.

19 SEN. WEST: But otherwise -- now Bexar  
20 County is saying it's going to be over \$380,000. That's  
21 not a nominal cost, is it?

22 SEN. FRASER: Well, I guess that's  
23 something you should consider in the Finance Committee.  
24 They have a huge budget, and in --

25 SEN. WEST: Who has a huge budget?

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1 SEN. FRASER: The large counties.

2 SEN. WEST: I'm sorry?

3 SEN. FRASER: The large counties.

4 SEN. WEST: They have huge budgets?

5 SEN. FRASER: Yes. And you will have to  
6 make that decision.

7 SEN. WEST: They don't have budget  
8 shortfalls in large counties?

9 SEN. FRASER: If I were you, then I would  
10 discuss that with the chairman --

11 SEN. WEST: But the reality is, the  
12 reality is, is that if -- and I won't belabor the  
13 point -- the reality is, if those counties will have to  
14 fund this out of existing revenue from their budgets,  
15 it's going to be an unfunded mandate on them if the  
16 state does not appropriate the money. Is that correct?

17 SEN. FRASER: Yes. It is expected that it  
18 will be a nominal cost for counties. Existing staff and  
19 resources should be sufficient to implement the new law.

20 SEN. WEST: And where are you getting that  
21 from?

22 SEN. FRASER: From the sheet here. If  
23 you'll follow, Comal County reported the cost associated  
24 with the provision of the bill should be absorbed within  
25 existing revenues.

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1 SEN. WEST: But that's Comal County.  
2 That's not Travis County, that's not Harris County,  
3 that's not Bell County or any of the other counties.  
4 That's Comal County. Comal County is not indicative of  
5 all of the counties in the State of Texas, is it?

6 SEN. FRASER: I think what you should do,  
7 then, is get 254 counties, if you'll call them all and  
8 get that number and --

9 SEN. WEST: Okay. Well, I mean, it's your  
10 bill.

11 (Simultaneous discussion)

12 SEN. FRASER: -- Finance.

13 SEN. WEST: And the reality is, if it's an  
14 unfunded mandate, you're responsible for it if this bill  
15 passes. Now, let me ask you this: The \$2 million, the  
16 \$2 million that you're talking about, if it does not  
17 come from HAVA funds, then it's going to have to come  
18 from general revenue. Is that correct?

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19 SEN. FRASER: I'm not advised. I'm not a  
20 member of Finance; you are. And I think that would be a  
21 decision of Finance.

22 SEN. WEST: Let's talk about just sections  
23 of the bill. Specifically, the issue concerning -- and  
24 I think you and Senator Davis have gone over this. And  
25 I'm on page, in Section 7 of the bill, specifically (c)  
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1 and (d). Let me know when you're with me on it.

2 SEN. FRASER: What page are you on?

3 SEN. WEST: I'm in Section 7 of the bill.

4 SEN. FRASER: That's Section 11.

5 Six, 7. Okay. Got it. Okay.

6 SEN. WEST: Okay. As relates to -- let's  
7 talk about the election officer. Now, what's the  
8 definition of the election officer?

9 SEN. FRASER: That would be a good  
10 question to the Secretary of State.

11 SEN. WEST: So you don't know what an  
12 election officer is?

13 SEN. FRASER: I've got a witness, you  
14 know, an expert witness coming in that -- you know, I  
15 think I do, but it would be improper for me to answer.  
16 I've got an expert person you can ask.

17 SEN. WEST: Let me ask this: Did you rely  
18 on the Secretary of State's office in helping to draft  
19 this bill?

20 SEN. FRASER: We have had a lot of  
21 discussion with the Secretary of State's office over the  
22 last three years in the process of drafting bills.

23 SEN. WEST: So you don't know what an  
24 election officer is?

25 SEN. FRASER: I didn't say I don't know  
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1 what the election officer is. But the Secretary of  
2 State is coming, and it would be improper for me to  
3 answer that if we have an expert witness that can answer  
4 it, you know, for sure.

5 SEN. WEST: So it would be improper for  
6 you to answer what an election officer is?

7 SEN. FRASER: No. We've got an expert  
8 witness that would be the better person to ask.

9 SEN. WEST: Okay. In terms of what an  
10 election officer is in your bill. Okay.

11 As it relates to Section (d), you say  
12 that, "If the voter's name is on the precinct list of  
13 registered voters and the voter's identity can be  
14 verified from the documentation presented under  
15 Subsection (b), the voter shall be accepted for voting."  
16 But if, indeed -- and the election officer is to make  
17 that determination. Is that correct?

18 SEN. FRASER: Again, that's a great  
19 question to ask the Secretary of State's office.

20 SEN. WEST: How does your bill work? Tell

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21 us how your bill works.

22 SEN. FRASER: You know, it's a --

23 (Simultaneous discussion)

24 SEN. WEST: I mean, would that be a great  
25 question to ask the Secretary of State?

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1 SEN. FRASER: It's a great concept. You  
2 walk in in Oak Cliff to vote. And if you're in the  
3 right precinct and your name is on the list and you pull  
4 out your driver's license and you show it to them and  
5 your smiling face on your driver's license matches  
6 you --

7 SEN. WEST: Well, let me --

8 SEN. FRASER: -- I think they're going to  
9 hand you a ballot and allow you to vote.

10 SEN. WEST: Then let me ask you this: My  
11 last name is spelled W-e-s-t. Suppose there's some  
12 typographical error where they spelled it W-e-s, but  
13 it's me. I have an ID, but my name is misspelled. What  
14 happens then? I have to vote a provisional ballot?

15 SEN. FRASER: I think that would be a good  
16 question for the Secretary of State, because I think  
17 they will cover that in the training with the election  
18 officials you're discussing.

19 SEN. WEST: What is your, intent, Senator?

20 SEN. FRASER: My intent is that the  
21 Secretary of State would make a ruling on that.

22 SEN. WEST: Under those circumstances,  
23 what would be your intent, as the author of this bill?  
24 If my name is W-e-s-t but there is a typographical error  
25 someplace and it's W-e-s, what is the intent. Give the

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1 record your intent as the author of this bill.

2 SEN. FRASER: My intent, as the author of  
3 the bill, is that I'm going to give the authorization to  
4 the Secretary Of State to make a ruling and train the  
5 poll workers so that it would be clear that they're  
6 allowing the proper person to vote.

7 SEN. WEST: They're allowing the proper  
8 person to vote. So in that circumstance, would it be up  
9 to the election officer there to determine whether I'm  
10 the same person --

11 SEN. FRASER: I think it would be up to  
12 the Secretary of State --

13 SEN. WEST: Let me finish; let me finish.

14 -- whose last name is W-e-s, but my  
15 identification says W-e-s-t, and I'm presenting that, it  
16 would be up to that election worker. Right?

17 SEN. FRASER: I think that would be a  
18 great question to ask the Secretary of State.

19 SEN. WEST: But what's your intent,  
20 though? I'm just asking your intent. I can't ask the  
21 Secretary of the Senate what's your -- I mean, Secretary  
22 of State what your intent is.

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23 SEN. FRASER: I intend to --  
24 (Simultaneous discussion)  
25 SEN. WEST: You've got to manifest your

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1 intent so the Secretary of State will know, have some  
2 guidance in terms of how this bill should be  
3 implemented. Don't you agree, as the author of the  
4 bill?

5 SEN. FRASER: My intent is to give the  
6 Secretary of State the authorization to determine the  
7 rules, train the poll workers. They would make a  
8 determination on that.

9 SEN. WEST: So the poll worker in this  
10 instance would be the election officer? I have to ask  
11 the Secretary of State?

12 SEN. FRASER: You need to ask the  
13 secretary of State.

14 SEN. WEST: Okay. Poll workers, let's  
15 talk about poll workers. How much do we pay poll  
16 workers?

17 SEN. FRASER: That would be a good  
18 question to ask the Secretary of State.

19 SEN. WEST: Okay. What's the minimum  
20 wage? I would ask the Secretary of State?

21 SEN. FRASER: What does that have to do  
22 with this bill?

23 SEN. WEST: I mean, I'm just trying to  
24 understand exactly how much we pay our poll workers.

25 SEN. FRASER: Again, Senator, you're

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1 asking the question. I would suspect probably poll  
2 workers may be paid different from one county to  
3 another. And it's an area -- I think that that's a good  
4 question of the Secretary of State.

5 SEN. WEST: Okay. Now, you keep referring  
6 to the Secretary of State. But in the bill analysis,  
7 doesn't it also say that this bill does not expressly  
8 grant any additional rulemaking authority to the state  
9 office -- to a state officer, institution or agency?  
10 Does it say that? Do I have to ask the Secretary of  
11 State about that also?

12 SEN. FRASER: Senator, I'm sorry. I'm not  
13 advised. I do not have a bill analysis. Do you have  
14 one in front of you you would like show me?

15 SEN. WEST: I do. Look under "Rulemaking  
16 Authority."

17 SEN. FRASER: We don't have it.

18 SEN. WEST: You don't have a -- okay. In  
19 the bill analysis, what it says is that this bill does  
20 not expressly grant any additional rulemaking authority  
21 to a state officer, institution or agency?

22 SEN. FRASER: Isn't that standard language  
23 that's put on every bill?

24 SEN. WEST: I don't know. But what I'm

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25 asking you is --

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1 SEN. FRASER: You don't know?

2 SEN. WEST: -- given the fact that you are  
3 deferring everything to the Secretary of State, are you  
4 going to put some additional language in the bill that  
5 provides the Secretary of State some additional  
6 rulemaking?

7 SEN. FRASER: I think the key word there,  
8 this does not provide any additional. I think it's  
9 assumed that the Secretary of State has that ability  
10 under current ability we've given the Secretary of  
11 State.

12 SEN. WEST: Let me ask this, Senator  
13 Fraser. Okay. All right. You can't give me what your  
14 intent is in that situation. I'll just take that for  
15 granted.

16 You have made reference to the Carter-  
17 Baker Commission and recommendations. Is that correct?

18 SEN. FRASER: I want to make an  
19 observation here for Senator Whitmire. If you'll look  
20 up, it is filling up, so there must be someone concerned  
21 about the legislation we're talking about.

22 What was the question?

23 SEN. WHITMIRE: Lubbock.

24 SEN. FRASER: While Senator West gathers  
25 himself, I'll tell you that those are the great people

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1 from West Texas, the City of Lubbock. And they are  
2 great voters and very concerned. And I've seen the  
3 polling data that shows that West Texas was the highest  
4 percentage of people that believe that they should show  
5 their ID whenever they show up to vote. I'm really glad  
6 to have them at my back.

7 Go ahead.

8 SEN. WEST: Do I need to ask the Secretary  
9 of State about that, too, or what?

10 SEN. FRASER: You could. These people  
11 respect the opinion of the Secretary of State, and they  
12 probably have already asked.

13 SEN. WEST: Okay. Senator Fraser, a  
14 couple of things. As it relates to the Carter-Baker  
15 Commission, you've talked about the recommendations, and  
16 you are following the recommendations that came out of  
17 that commission. Is that correct?

18 SEN. FRASER: No. I filed a piece of  
19 legislation that I believe will be approved by the U.S.  
20 Supreme Court and will be cleared by the Department of  
21 Justice.

22 SEN. WEST: Okay. Let me ask you this:  
23 Have you made mention of the Carter-Baker Commission?

24 SEN. FRASER: I have made references a  
25 couple of times of things that they mentioned in their

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1 report.

2 SEN. WEST: Of the recommendations that  
3 they mentioned, did you incorporate any of those in your  
4 bill?

5 SEN. FRASER: My bill is a bill I believe  
6 that will be approved by the U.S. Supreme Court and be  
7 approved by the Department of Justice and will --

8 SEN. WEST: So the answer to the question  
9 is what? Did you incorporate any of the recommendations  
10 from the Carter-Baker Commission in your bill?

11 SEN. FRASER: The bill that we're filing  
12 is a bill that I believe will be approved by the U.S.  
13 Supreme Court and be approved by the Department of  
14 Justice.

15 SEN. WEST: So the answer to the question  
16 is?

17 SEN. FRASER: That we're filing a bill  
18 that's going to be approved by the U.S. Supreme Court.

19 SEN. WEST: Well, that wasn't the question  
20 asked. The question asked, did you incorporate any of  
21 the recommendations in the Carter-Baker Commission in  
22 your bill? That was the question I asked.

23 SEN. FRASER: I read the Carter-Baker  
24 report. And you know, obviously, I'm aware of the  
25 things they're recommending. But the bill that I've

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1 drafted is based on the fact that whenever you walk in  
2 to vote, I want you to show an ID proving you are who  
3 you say you are, and I believe that bill will be  
4 approved by the U.S. Supreme Court.

5 SEN. WEST: So you don't know whether you  
6 did or not. Is that the answer to my question?

7 SEN. FRASER: My answer is, the bill that  
8 we filed, that we brought forward, is a bill that  
9 clearly says that whenever you vote, you need to show  
10 your ID, and I believe that bill will be approved by the  
11 U.S. Supreme Court.

12 SEN. WEST: Was that one of the  
13 recommendations of the commission?

14 SEN. FRASER: I'm not advised.

15 SEN. WEST: But you made reference to it  
16 as a predicate for why this particular bill --

17 SEN. FRASER: No. I made a reference to  
18 comments that were made by the Carter-Baker Commission.

19 SEN. WEST: What were those comments that  
20 you made?

21 SEN. FRASER: If you want to go over it  
22 again, I can do my opening statement again if you would  
23 like.

24 SEN. WEST: No, just the comments from the  
25 Carter-Baker Commission.

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1 SEN. FRASER: Carter-Baker Commission,  
2 bipartisan -- Carter-Baker Commission affirms the

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3 danger. Elections are at the heart of the democracy.  
 4 "Americans are losing confidence in the fairness of  
 5 elections, and while we do not face a crisis today, we  
 6 need to address the problems of our electoral system."

7 The Carter-Baker Commission concluded at  
 8 the end of the day, there's considerable national  
 9 evidence of in-person voter fraud. And regardless of  
 10 whether one believes that voter impersonation is  
 11 widespread or relatively rare, there can be no serious  
 12 dispute that it is a real effect, can be substantial  
 13 because, in a close election, even a small amount of  
 14 fraud could make a margin of difference.

15 SEN. WEST: Okay.

16 SEN. FRASER: That was my reference to the  
 17 commission.

18 SEN. WEST: Okay. Did they also  
 19 recommend, though, that we should use some sort of  
 20 mobile strategy, mobile strategy in order to get  
 21 vehicles out to different locations to --

22 SEN. FRASER: I didn't reference that.

23 SEN. WEST: No. I said did they also  
 24 recommend that, though?

25 SEN. FRASER: I'm sorry. I'm not advised.

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1 I didn't reference that.

2 SEN. WEST: Okay. But if they did make a  
 3 recommendation that we should do everything we can to  
 4 make certain people are registered to vote, you would  
 5 support that, wouldn't you?

6 SEN. FRASER: The bill I'm filing, that  
 7 I'm filing today --

8 SEN. WEST: No. That's not --

9 SEN. FRASER: -- very clearly says that I  
 10 think it will be approved by the U.S. Supreme Court and  
 11 approved by the Department of Justice.

12 SEN. WEST: And we need to ask the  
 13 Secretary of State. Okay. I understand that. But what  
 14 I'm asking is, you would agree that if we are trying to,  
 15 quote unquote, purify our election process, that we  
 16 should do everything we can in order to make certain  
 17 people are registered to vote. Wouldn't you agree with  
 18 that?

19 SEN. FRASER: I think probably when the --

20 SEN. WEST: Well, you would not agree with  
 21 that?

22 SEN. FRASER: If you'll allow me to make a  
 23 statement.

24 SEN. WEST: Sure.

25 SEN. FRASER: I think when DPS comes up, I

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1 think there's going to be a lot of discussion about what  
 2 can they do in the form of either making it easy for  
 3 people to sign up and/or even, maybe even a temporary  
 4 van for an area that Senator Uresti had talked about in

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5 far West Texas. Those people that are, you know,  
6 100 miles from the nearest location, maybe there's a way  
7 to accommodate that. So I think the answer to your  
8 question is, I'm anxious to hear the response of the  
9 Department of Safety of what they're either able and/or  
10 willing to do.

11 SEN. WEST: And let's assume that they are  
12 able and willing to do more than your bill permits.  
13 Would you support an amendment that would enable them to  
14 do what they're able to do in order to --

15 SEN. FRASER: Have you prefiled that  
16 amendment and have I had a chance to look at it?

17 SEN. WEST: No. I'm asking you a question  
18 right now.

19 SEN. FRASER: And I'm asking you, have you  
20 filed your amendment?

21 SEN. WEST: Well, you basically said, sir,  
22 that you have to wait -- we have to wait until you hear  
23 their testimony before we can make a determination as to  
24 whether or not they're --

25 SEN. FRASER: No, I can't tell you --

0137

1 SEN. WEST: Well, let me finish; let me  
2 finish, please. Let me finish.

3 What you just said a second ago is, is  
4 that you want to defer to the Department of Public  
5 Safety to make a determination as to whether or not  
6 there are things that they can do in order to make  
7 certain they're doing the outreach that's necessary to  
8 accommodate just some of the concerns that senator  
9 Uresti had.

10 SEN. FRASER: I didn't say that at all. I  
11 said --

12 SEN. WEST: What did you say?

13 SEN. FRASER: -- I'm anxious to hear their  
14 testimony when they're asked and their response of what  
15 they are able, capable of doing for that. And then once  
16 you do that, if you want to offer an amendment, I will  
17 look at every amendment offered. If you'll got one, you  
18 need to go ahead and file it.

19 SEN. WEST: Let me give you a  
20 hypothetical, then. If the Department says that they  
21 can do much more than your bill currently allows them to  
22 do, would you support an amendment that would give them  
23 the resources or give them the rulemaking authority to  
24 be able to do the outreach?

25 SEN. FRASER: I'm probably not going to

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1 work in hypotheticals right now. Let's wait until we  
2 hear from them. Then we'll determine that.

3 SEN. WEST: Okay. Well, I'm going to make  
4 sure and I'll put that down.

5 I want to talk about seniors just for one  
6 second. How did you come up with 70 years old? Well,

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7 hold on. Let me ask you this: Is there a definition, a  
 8 federal definition under any of our laws, U.S. laws or  
 9 either state laws, that defines a senior citizen?

10 SEN. FRASER: It was really actually a  
 11 very complicated system that we came up with this. It  
 12 actually was recommended by a democratic member that  
 13 said, "If you'll put that in the bill, that would help  
 14 five or six of us vote for the bill." So that was  
 15 recommended originally to be put in the bill. But the  
 16 answer to your question is, I'm 61 years old, and I  
 17 think you're just about as old as I am.

18 SEN. WEST: No, I'm younger; I'm younger  
 19 than you are. I'm younger.

20 SEN. FRASER: Oh, you're 60 -- 59?

21 SEN. WEST: I'm younger than you are.

22 SEN. FRASER: How old are you, sir?

23 SEN. WEST: I'm 58 years old.

24 SEN. FRASER: Okay. Of the people

25 (laughter) --

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1 SEN. WEST: Ask the Secretary. We're not  
 2 going to --

3 SEN. FRASER: I want to see your photo ID.

4 SEN. WEST: Ask the Secretary.

5 SEN. FRASER: I need a photo ID.

6 SEN. WEST: Got to ask the Secretary.

7 SEN. FRASER: And here, this is a good  
 8 observation. I live in an area, a retirement community,  
 9 and I know a lot of the people in that area. And the  
 10 people that are my age, that are 61 up to 65 up to 70, I  
 11 think are still very, very capable. It is not an  
 12 inconvenience on them. There's a lot of people that are  
 13 70 --

14 SEN. WEST: And what community?

15 SEN. FRASER: You want me to answer the  
 16 question?

17 SEN. WEST: I just didn't hear. You said  
 18 you lived in a retirement --

19 SEN. FRASER: I live in an area where  
 20 there's a lot of retired people.

21 SEN. WEST: People. Okay.

22 SEN. FRASER: Yes, like myself.

23 SEN. WEST: Yes.

24 SEN. FRASER: Those people that I know,  
 25 people that are up to that age, it would not be an

0140

1 inconvenience for them, and they're still very, very  
 2 active. Actually, I've got numerous people that I play  
 3 golf with often that are above 70 and up to 80. So,  
 4 actually, the number probably could have been higher,  
 5 but that number we thought was a fair number and  
 6 represented a number that we could offer up as a very  
 7 fair number for an exception to this bill.

8 SEN. WEST: Let me make sure I understand

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9 your answer to that question. You're saying that the  
 10 age 70 is predicated on people that you know that live  
 11 in your community?

12 SEN. FRASER: It is predicated by a  
 13 democrat member offering me that up as a number, that if  
 14 we would put that in the bill, there would be five or  
 15 six Democrats that would vote for the bill. That's the  
 16 answer to my question.

17 SEN. WEST: Okay. But you added a lot of  
 18 other stuff after that. What was all that other stuff?

19 SEN. FRASER: The other stuff was the  
 20 people that I know that are capable of that. Now, if  
 21 someone is not capable, we are not changing the mail-out  
 22 ballot procedures. And that anyone for some reason that  
 23 could not vote in person would be allowed to vote like  
 24 they do today.

25 SEN. WEST: Don't you think that a better  
 0141

1 definition would be 65? Why wouldn't you use 65? And  
 2 let me give an example.

3 In the Human Resource Code, elderly person  
 4 means a person 65 years of age or older. Why wouldn't  
 5 we use that as an age? Our Penal Code uses elderly  
 6 individual means a person 65 years of age or older. Our  
 7 Utility Code means an individual who is 60 years or  
 8 older. Our Human Resource Code means an elderly person,  
 9 means a person who 60 years or older. And now we're  
 10 going to have our election code basically saying a  
 11 person of 70 years or older. Don't you think -- I'm not  
 12 going to vote for your bill anyway, but just in case.

13 SEN. FRASER: You actually were one of the  
 14 ones that was asking if I would put it in the bill.

15 SEN. WEST: No, no, no, no, no, no, no,  
 16 no. Let's get it straight. I didn't ask you that --  
 17 okay? -- for the record. Okay? I didn't ask you that.

18 SEN. FRASER: Okay.

19 SEN. WEST: But if you're going to put it  
 20 in there, it seems as though you should have one of a  
 21 consistent definition with some of the other statutes.  
 22 You're making an elderly individual for voting purpose  
 23 more onerous than it is under these other statutes, like  
 24 in our Penal Code where it says an individual -- elderly  
 25 person is 65 years old.

0142

1 SEN. FRASER: I actually believe that the  
 2 number probably could easily be higher, because --

3 SEN. WEST: So you would make it 80 years  
 4 old?

5 SEN. FRASER: I'm sorry?

6 SEN. WEST: You would make it 80 years old  
 7 for election purposes?

8 SEN. FRASER: I'm saying when I'm 80, I  
 9 still believe I'll be able to get in the car, go down  
 10 and get my ID and be able to vote.

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11 SEN. WEST: But, see, you're assuming that  
12 all elderly people have cars.

13 SEN. FRASER: If they don't, they can vote  
14 by mail.

15 SEN. WEST: But you're assuming that they  
16 all have cars and that they'll be able to do everything  
17 that you'll be able to do at the age of 80. And I'm  
18 pretty certain you will be able to do it given, you  
19 know, the things that you do to keep yourself in shape  
20 and everything.

21 But I don't think we should be building  
22 that definition based on how you perceive yourself and  
23 people in your neighborhood. The fact of the matter is,  
24 you're more affluent than most other people in the State  
25 of Texas. And if you're going to build a definition, I

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1 think what you need to look at is what the average  
2 elderly person in the State of Texas, you know, is and  
3 the means that they have.

4 SEN. FRASER: And, Senator, I think, you  
5 know, if you're going to consider that, you've got to  
6 think about how things have changed. When my parents  
7 were 65, they were old. Things have changed a lot with  
8 diet and exercise, and people are changing what they can  
9 do.

10 People that are 70 or 75 or 80 are still  
11 very, very active today, and I think it's a very fair  
12 number. Now, I feel very comfortable that you're  
13 probably going to offer an amendment, raising -- or  
14 changing that number. And I think probably, if the  
15 members of the body, you know, could help us decide  
16 that, I think -- myself, I believe that 70 is a very  
17 fair number --

18 SEN. WEST: Let me --

19 SEN. FRASER: -- exception.

20 CHAIRMAN DUNCAN: Senator West --

21 SEN. WEST: Yes.

22 CHAIRMAN DUNCAN: -- if I might  
23 interrupt -- and I don't want to -- we can continue with  
24 your line of questions when we reconvene as a Committee  
25 of the Whole. It's 20 till. We've gone 10 minutes over

0144

1 what we previously announced. Would you have any  
2 objection if we could continue the dialogue after  
3 session?

4 SEN. WEST: No objection.

5 CHAIRMAN DUNCAN: Okay. Very good. Why  
6 don't we go ahead and do that. Before we do that, let  
7 me ask the body if you would, please, if you have  
8 amendments that you would wish to -- we're not putting a  
9 deadline on amendments, but it will help us if you can  
10 deliver your amendments as soon as possible to Jennifer  
11 Fagan who is the State Affairs Committee Director, and  
12 we will try to collate them and make sure that there are

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13 not conflicting amendments. And if you'll do that as  
14 soon as possible, that will be helpful.

15 There are a number of people that are on  
16 queue to be recognized, and I will recognize them in  
17 order that they're on queue. Now we'll record that and  
18 then start. Senator Lucio will be first, Senator Van de  
19 Putte, Senator Ellis, Senator Seliger, unless you're  
20 just -- you're just on for the motion, so we'll take you  
21 off center -- Wentworth. He's just for the motion, so  
22 we'll take him off. And then, Senator Zaffirini, you  
23 would be in queue at that point in time. And then we'll  
24 just start the queue. Whenever we come back in, you can  
25 go ahead and hit your button and we'll have the queue.

0145

1 Exhibits, too. If you have exhibits that  
2 you want to enter into the record so that we can make  
3 sure we have an orderly transition of those exhibits,  
4 would you go ahead and bring those forward, at least  
5 during the interim time, so we can go ahead and number  
6 them and have them available. It's not absolutely  
7 necessary that we introduce them in their chronological  
8 order, but it does help have a cleaner record.

9 Finally, I want to remind you, we did have  
10 a little talking over, so we've got to make sure we have  
11 a clear record. So please, in the future, remember to  
12 speak one at a time.

13 Senator Zaffirini is recognized for an  
14 announcement.

15 (Announcement by Senator Zaffirini)

16 CHAIRMAN DUNCAN: Thank you, Senator.

17 The Chair recognizes Senator Seliger for a  
18 motion.

19 SEN. SELIGER: Mr. President, I move that  
20 the Committee of the Whole Senate rise and report  
21 progress.

22 CHAIRMAN DUNCAN: Members, you've heard  
23 the motion. Is there objection?

24 Chair hears none. It's so ordered.

25 (Recess: 10:43 a.m. to 12:38 p.m.)

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1 AFTERNOON SESSION

2 TUESDAY, JANUARY 25, 2011

3 (12:38 p.m.)

4 CHAIRMAN DUNCAN: The Committee of the  
5 Whole Senate will come to order. The Secretary will  
6 call the roll.

7 ROLL CALL

8 SECRETARY SPAW: Birdwell?

9 SEN. BIRDWELL: (Indicated presence)

10 SECRETARY SPAW: Carona?

11 SEN. CARONA: (Indicated presence)

12 SECRETARY SPAW: Davis?

13 SEN. DAVIS: (Indicated presence)

14 SECRETARY SPAW: Deuell?

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15 SEN. DEUELL: (Indicated presence)  
 16 SECRETARY SPAW: Duncan?  
 17 CHAIRMAN DUNCAN: (Indicated presence)  
 18 SECRETARY SPAW: Ellis?  
 19 SEN. ELLIS: (Indicated presence)  
 20 SECRETARY SPAW: Eltife?  
 21 SEN. ELTIFE: (Indicated presence)  
 22 SECRETARY SPAW: Estes?  
 23 SEN. ESTES: (Indicated presence)  
 24 SECRETARY SPAW: Fraser?  
 25 SEN. FRASER: (Indicated presence)

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1 SECRETARY SPAW: Gallegos?  
 2 SEN. GALLEGOS: (Indicated presence)  
 3 SECRETARY SPAW: Harris?  
 4 SEN. HARRIS: (Indicated presence)  
 5 SECRETARY SPAW: Hegar?  
 6 SEN. HEGAR: (Indicated presence)  
 7 SECRETARY SPAW: Hinojosa?  
 8 SEN. HINOJOSA: (Indicated presence)  
 9 SECRETARY SPAW: Huffman?  
 10 SEN. HUFFMAN: (Indicated presence)  
 11 SECRETARY SPAW: Jackson?  
 12 SEN. JACKSON: (Indicated presence)  
 13 SECRETARY SPAW: Lucio?  
 14 SEN. LUCIO: (Indicated presence)  
 15 SECRETARY SPAW: Nelson?  
 16 SEN. NELSON: (Indicated presence)  
 17 SECRETARY SPAW: Nichols?  
 18 SEN. NICHOLS: (Indicated presence)  
 19 SECRETARY SPAW: Ogden?  
 20 SEN. OGDEN: (Indicated presence)  
 21 SECRETARY SPAW: Patrick?  
 22 SEN. PATRICK: (Indicated presence)  
 23 SECRETARY SPAW: Rodriguez?  
 24 SEN. RODRIGUEZ: (Indicated presence)  
 25 SECRETARY SPAW: Seliger?

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1 SEN. SELIGER: (Indicated presence)  
 2 SECRETARY SPAW: Shapiro?  
 3 SEN. SHAPIRO: (Indicated presence)  
 4 SECRETARY SPAW: Uresti?  
 5 SEN. URESTI: (Indicated presence)  
 6 SECRETARY SPAW: Van de Putte?  
 7 SEN. VAN de PUTTE: (Indicated presence)  
 8 SECRETARY SPAW: Watson?  
 9 SEN. WATSON: (Indicated presence)  
 10 SECRETARY SPAW: Wentworth?  
 11 SEN. WENTWORTH: (Indicated presence)  
 12 SECRETARY SPAW: West?  
 13 SEN. WEST: (Indicated presence)  
 14 SECRETARY SPAW: Whitmire?  
 15 SEN. WHITMIRE: (Indicated presence)  
 16 SECRETARY SPAW: Williams?

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17 SEN. WILLIAMS: (Indicated presence)  
18 SECRETARY SPAW: Zaffirini?  
19 SEN. ZAFFIRINI: (Indicated presence)  
20 SECRETARY SPAW: Lieutenant Governor  
21 Dewhurst?  
22 PRESIDENT DEWHURST: (Indicated presence)  
23 CHAIRMAN DUNCAN: Quorum is present.  
24 (Pause)  
25

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1 QUESTIONS FROM THE SENATE FLOOR (CONTINUED)

2 CHAIRMAN DUNCAN: Senator Fraser, are you  
3 ready?

4 SEN. FRASER: I am ready.

5 CHAIRMAN DUNCAN: Senator West, you're  
6 recognized to continue your questioning with Senator  
7 Fraser.

8 SEN. WEST: Yes, sir. Thank you very  
9 much.

10 SEN. FRASER: And we're going to try it  
11 without earphones. See how that works. I think I'm  
12 good with you.

13 CHAIRMAN DUNCAN: And if I could advise  
14 both of you, I had some -- we had some concerns about  
15 you were both talking at the same time on your last  
16 dialogue. So if each of you could remember that, and  
17 I'll try to help you --

18 SEN. WEST: Okay.

19 CHAIRMAN DUNCAN: -- if you forget.

20 SEN. WEST: All right. Thank you.

21 Senator Fraser, I think, then, when we  
22 were looking -- can I ask that the last question be read  
23 back?

24 CHAIRMAN DUNCAN: The -- probably not  
25 because we have switched court reporter shifts and so --

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1 SEN. WEST: I was just trying not to be  
2 redundant on it.

3 And, Senator Fraser, if -- if I am being  
4 redundant, we talked about --

5 SEN. FRASER: You are being redundant.

6 SEN. WEST: Okay. I need to ask the  
7 Secretary of State about that.

8 (Laughter)

9 SEN. WEST: Wait a minute. Hold on. I'm  
10 being redundant?

11 Senator Fraser, I think I was asking you  
12 about the \$2 million; and you had indicated that those  
13 funds may very well come from the federal funds, but  
14 we're not certain at this point. And if they don't come  
15 from federal funds, they will have to come from general  
16 revenue, and we're at least -- the minimum amount is  
17 about \$2 million. And I think that I mentioned to you  
18 that the average teacher in the state of Texas makes

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19 about \$48,000.

20 If we have to appropriate state funds in  
21 order to fund this voter ID bill, it will cost a minimum  
22 of \$2 million, and that's the equivalent of about 40,000  
23 teachers. You do understand and appreciate that. Is  
24 that correct?

25 SEN. FRASER: And I very much appreciate  
0151

1 how valuable our schoolteachers are to the state of  
2 Texas. Without a doubt, I'm very, very aware of that.

3 And, again, the discussion we had prior to  
4 us breaking, we believe very, very strongly that there  
5 is sufficient funds in the Secretary of State's budget  
6 from HAVA funds that would -- that the letter says they  
7 have enough funds to cover this. They are going to  
8 request of the federal government. It is not  
9 unprecedented. They have allowed that to be used  
10 before, so we have every reason to believe it will be  
11 done. And so the discussion of whether that money would  
12 deprive some -- the rest of the budget is speculative us  
13 not knowing because we believe very strongly that --  
14 that that money is going to be available.

15 SEN. WEST: And this may very well be a  
16 technical question for the Secretary of State.

17 If for some reason --

18 SEN. FRASER: I would never refer anything  
19 to --

20 SEN. WEST: If for some reason the bill is  
21 not precleared by Justice, will those HAVA funds be made  
22 available?

23 SEN. FRASER: I'm sorry. That one I, for  
24 sure, do not know the answer to that. That would be a  
25 great question for the Secretary of State.

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1 SEN. WEST: For sure?

2 SEN. FRASER: For sure.

3 SEN. WEST: Okay.

4 SEN. FRASER: I do not know the answer to  
5 that question.

6 SEN. WEST: Okay. And we need to make  
7 certain we do. If -- would you support an amendment,  
8 though, that basically says that if general revenue,  
9 state revenue, had to be used in order to fund this  
10 particular bill, that you would then delay the -- the  
11 implementation of it?

12 And the reason I'm asking that is, surely  
13 you don't want to take general revenue from our coffers  
14 to fund voter ID when we may end up having to lay off  
15 thousands of teachers. I would assume that you would  
16 want teachers -- us to appropriate money to make certain  
17 that we can fund our education system over funding a  
18 voter ID system.

19 SEN. FRASER: Senator, could I remind you  
20 that there was a motion in writing that was entered by

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21 Senator Huffman of the -- the testimony of two years  
22 ago. And I think if you'll go back and read that  
23 testimony, yourself and several others, one of the big  
24 arguments you had was making sure that there was  
25 sufficient money that went forward for the education of  
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1 voters, making sure voters understood and that no one  
2 would misunderstand this process. So it's difficult for  
3 me when you're arguing both sides of the issue.

4 I think the answer to your question is,  
5 I'm not going to take a position today about whether we  
6 should or should not. We are requesting that the  
7 Secretary of State do sufficient education so that no  
8 one misunderstands the -- the implementation of this  
9 bill.

10 SEN. WEST: Regard --

11 SEN. FRASER: We're going to give -- we're  
12 going to give them that power. And that without a  
13 doubt, I would hate for us to be using money that could  
14 be used for a schoolteacher, and I'm not going to get  
15 into that debate because I'm a great supporter of  
16 schoolteachers.

17 But I still stand by the letter from the  
18 Secretary of State. The Secretary of State believes  
19 very clearly that they have sufficient funds, the money  
20 is available, and it will be made available.

21 SEN. WEST: So the answer to my question  
22 is, is that if there are no federal funds available, you  
23 would support an amendment that basically says that we  
24 should not use general revenue in order to fund this  
25 bill?

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1 SEN. FRASER: And my position is, is that  
2 you've taken both sides of that issue. You argued in  
3 favor of funds last time. You're -- now you're asking  
4 for amendment saying we're not going to use funds. If  
5 we don't use funds to educate voters, obviously that's a  
6 problem.

7 And the answer is, no, I believe the  
8 instruction to the Secretary of State is that we do need  
9 to educate the voters.

10 SEN. WEST: So you'd be -- you'd be in  
11 favor of cutting schoolteachers using -- and, I mean,  
12 you agree with me that based on the budget that was  
13 introduced by the House and the budget that was  
14 introduced by the Senate, that school districts will be  
15 under pressure to terminate some of the teachers that  
16 would otherwise be in the classroom?

17 SEN. FRASER: I -- I don't agree with  
18 anything other than the fact --

19 SEN. WEST: Okay. All right.

20 SEN. FRASER: -- that your own finance,  
21 you're going to have to make those decisions; and we've  
22 got to make sure that we educate voters, making sure

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23 that they understand the implementation of this law.

24 SEN. WEST: All right. Let me ask the  
25 question this way, then: Would you agree with me that  
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1 both the House and the Senate have introduced bills that  
2 put pressure on school districts to reduce their budgets  
3 that would impact the number of teachers that would be  
4 in classrooms?

5 SEN. FRASER: You're a member of the  
6 Finance Committee that implemented a draft budget. I am  
7 not. I have not advised.

8 And the answer is, I'm sorry, I don't --  
9 I -- I'm not advised on that issue.

10 SEN. WEST: If you were so advised -- if  
11 you were so advised that both the House and the Senate  
12 by -- if you were so advised by me, the Chairman of  
13 Finance, the Chairman of Appropriation, that both the  
14 House and the Senate have introduced bills that would  
15 require us cutting our commitment to our public schools  
16 and our teachers, if you were so advised that both  
17 houses introduced the budget that did that, would your  
18 position still be the same as it relates to the question  
19 I asked you concerning whether or not we should be using  
20 general revenue in order to fund voter ID implementation  
21 over funding our public schools?

22 SEN. FRASER: I am so advised that you're  
23 a member of finance, a very respected member, and you're  
24 very capable of making those hard decisions; and I'm  
25 sure you'll move forward and make the right decision for  
0156

1 our wonderful schoolteachers across the state.

2 SEN. WEST: What decision would you make?

3 SEN. FRASER: I'm sorry?

4 SEN. WEST: What decision would you make?

5 SEN. FRASER: I made a decision to support  
6 you, as a member of finance, to keep you on the  
7 committee.

8 SEN. WEST: So if you had -- if you had to  
9 make a decision, though, if you were on finance and had  
10 to make a decision, what decision would you make?

11 SEN. FRASER: I'm sorry. I'm not sitting  
12 on finance. I'm not subject to being able to listen to  
13 the debates, so it would be -- wouldn't be right for me  
14 to take a position on that.

15 SEN. WEST: But if you had to make -- take  
16 a position on funding voter ID over schoolteachers,  
17 which one would you fund?

18 SEN. FRASER: I'm -- I think the  
19 position -- because this bill is before us, it is  
20 extremely important that -- that we deter and detect  
21 fraud and restore the public confidence in the election  
22 system.

23 SEN. WEST: So that's your answer in terms  
24 of -- is that what you're telling the teachers, that

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25 you'd rather do that than -- to the extent it's there,  
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1 you'd --

2 (Simultaneous speaking)

3 SEN. FRASER: Well, unfortunately, since  
4 I'm not a member of finance, I don't get to make a  
5 choice of what I would rather do. I'm laying --  
6 bringing forward a bill today that would restore the  
7 confidence of the public in the election system and --  
8 today, because I'm sponsoring that bill, that I'm going  
9 to ask that we -- you know, we restore that confidence.

10 SEN. WEST: So, I'm trying to -- so let me  
11 make certain I understand your answer to my question.

12 SEN. FRASER: I know you're trying to --

13 SEN. WEST: Let me -- let me -- hold up.  
14 Now, I'm listening, because if you remember, both of us  
15 can't talk at the same time because the stenographer's  
16 taking it down, and I'm trying to make certain that I am  
17 reminded of that fact.

18 So your answer to that question is that  
19 you would prefer to fund the voter ID bill, if need be,  
20 with state funds than to put extra money -- take that  
21 \$2 million, if we need to, and put it back in the budget  
22 for our school districts?

23 SEN. FRASER: You know, the -- you know,  
24 the important thing -- or the good thing with the  
25 Legislature is you don't get to make -- answer questions  
0158

1 for me, and the -- I did not say that at all.

2 Today I'm laying -- bringing forward a  
3 bill that would deter and detect fraud and restore the  
4 public confidence in the election system.

5 SEN. WEST: How does your bill detect  
6 fraud?

7 SEN. FRASER: Come back? I'm sorry. I  
8 didn't hear you. What did you say?

9 SEN. WEST: How does your bill detect  
10 fraud?

11 SEN. FRASER: The -- the bill is designed  
12 to deter and detect fraud and restore --

13 SEN. WEST: No. I asked you: How does  
14 your bill detect fraud?

15 SEN. FRASER: The -- I think the easy  
16 answer to that would be, is that when you walk into  
17 the -- into your election booth and you show your  
18 driver's license, they know for sure that you're Royce  
19 West and that if you're on the precinct list,  
20 registered, you're entitled to vote.

21 SEN. WEST: And so that's -- that's the  
22 fraud detection provision in it? And so you'd rather  
23 fund --

24 SEN. FRASER: That's the way the bill  
25 works.

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1 SEN. WEST: Now, let me ask you this: If  
2 there's empirical evidence that -- in Texas, at least,  
3 because, you know, we are -- we are Texas. We are the  
4 Lone Star State. The rest of America can go this way,  
5 and we'll go that -- the other way. Right? Right.  
6 Okay. You're good with that. Right?

7 SEN. FRASER: I'm sitting here listening.

8 SEN. WEST: You don't agree with that?

9 SEN. FRASER: No, I'm listening to you.

10 You're --

11 SEN. WEST: We are Texans.

12 SEN. FRASER: You're still answering my  
13 questions for me.

14 SEN. WEST: We're Texans.

15 SEN. FRASER: Keep going.

16 SEN. WEST: I'm just asking you whether  
17 you agree with it. And so the question I'm asking you  
18 is: Is there any indication that we have prosecuted any  
19 fraud associated with identification in the state of  
20 Texas? Is there any empirical evidence whatsoever?

21 SEN. FRASER: The bill that I'm bringing  
22 forward today will clearly say that when you walk in the  
23 voting booth, you identify yourself as who you say you  
24 are, and the bill that we're bringing forward we believe  
25 will pass the Supreme Court of the United States and be  
0160

1 approved by Department of Justice.

2 SEN. WEST: I notice you keep on saying  
3 that in terms of you believe that the bill is going to  
4 pass muster at the Department of Justice and also the  
5 United -- the Supreme Court of the United States. Are  
6 you anticipating any -- let me -- let me ask this: If  
7 the Department of Justice decides not to preclear this  
8 legislation, are you anticipating any type of court  
9 challenge by the state of Texas?

10 SEN. FRASER: Senator, I'm starting to  
11 have trouble hearing you. Hold on a second. Let me put  
12 my earphones on.

13 (Pause)

14 SEN. FRASER: Are you there?

15 SEN. WEST: Yes.

16 SEN. FRASER: Would you say something?

17 SEN. WEST: Testing, testing, testing.

18 SEN. FRASER: Okay. I got you.

19 SEN. WEST: One, two, three.

20 SEN. FRASER: Okay. Will you ask your  
21 question again?

22 SEN. WEST: You have consistently  
23 indicated that this particular bill will pass the  
24 Department of Justice and also the Supreme Court. I'm  
25 asking you: Do you anticipate that if the Department of  
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1 Justice decides not to preclear this particular  
2 legislation, any litigation concerning it?

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3 SEN. FRASER: You're -- you're being  
4 subjective about me assuming what's going to happen. I  
5 believe the bill that we had -- that we're offering will  
6 be precleared.

7 SEN. WEST: But I'm asking if it's not  
8 precleared. Do you want to see us go into litigation  
9 with the federal government concerning your bill if it's  
10 not precleared?

11 SEN. FRASER: I don't -- I don't think  
12 that's, you know, my choice. I think we -- we will  
13 present the bill forward and try to present our best  
14 case that it should.

15 SEN. WEST: Okay. So does your bill  
16 anticipate any litigation at all?

17 SEN. FRASER: The bill in no way addresses  
18 or thinks about any litigation. It is clearly just a  
19 bill saying this is -- this is what we're asking you to  
20 do, to present a photo ID when you vote, and that's the  
21 extent of the bill.

22 SEN. WEST: I know because -- and the  
23 reason I ask that question, you continue to make  
24 reference to the Department of Justice and the U.S.  
25 Supreme Court or --

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1 SEN. FRASER: Only because the -- the  
2 bills that have been brought forward by other states,  
3 which Indiana was cleared by the -- you know, made it  
4 all the way to the U.S. Supreme Court; and then in  
5 Georgia, they were precleared from the Department of  
6 Justice because a bill -- you know, since we're a  
7 Section 5 state, they were precleared.

8 SEN. WEST: Okay. In Georgia, not  
9 Indiana. Indiana's not a Section 5 state?

10 SEN. FRASER: No, they are not.

11 SEN. WEST: Okay. Has the Legislature or  
12 have you conducted any research on how burdens of the  
13 photo ID requirements may fall disproportionately upon  
14 racial minorities?

15 SEN. FRASER: Come back again. I'm sorry.  
16 My sound went off.

17 SEN. WEST: Okay. In drafting your -- in  
18 drafting your bill, was there any research conducted on  
19 how burdens of -- burdens of photo identification  
20 requirements may fall disproportionately on racial  
21 minorities?

22 SEN. FRASER: Probably the best evidence  
23 that I could bring forward, that the latest poll that  
24 was conducted of Texans, including the people in your  
25 area. Of the -- there were 86 percent of the public

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1 that in favor of that. Of that, 82 percent were black,  
2 83 percent were Hispanic.

3 So I would say the answer to your question  
4 is: If you ask someone that is either African American

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5 or Hispanic, do they believe that -- "Do you  
6 favor/oppose requiring a valid photo ID before a person  
7 is allowed to vote?" and you have 82 percent of the  
8 public that says that --

9 SEN. WEST: Right.

10 SEN. FRASER: -- pretty -- pretty  
11 straightforward.

12 SEN. WEST: You keep referring to that  
13 poll. What poll is that, sir, and who was it conducted  
14 by?

15 SEN. FRASER: It was conducted -- this is  
16 one of many we had. I've got a whole series of polls.  
17 This just happened to be the latest one that was  
18 conducted January the 10th, 2011. This one was by the  
19 Lighthouse Opinion Polling & Research, LLC.

20 SEN. WEST: Lighthouse Opinion.

21 SEN. FRASER: Lighthouse Opinion Polling,  
22 LLC.

23 SEN. WEST: Okay. And --

24 SEN. FRASER: One that was --  
25 (Simultaneous discussion)

0164

1 SEN. WEST: Were you finished?

2 SEN. FRASER: Yeah.

3 SEN. WEST: Okay. Now, the question,  
4 though, that I asked, not -- and I agree with you that  
5 most people will say that some form of photo ID is okay.  
6 Now --

7 SEN. FRASER: But what --

8 SEN. WEST: Let me -- let me finish. Let  
9 me finish, though. Hold on for a second.

10 I would agree with you that, but my  
11 question wasn't about their opinion. My question was:  
12 Have you conducted any research on how burdens of photo  
13 ID requirements may fall disproportionately on racial  
14 minorities?

15 SEN. FRASER: And I think the answer to  
16 that, if you look at what happened in Indiana and  
17 Georgia is a good example because it is a Section 5  
18 state. In those states, to our -- to my knowledge,  
19 there has not been a single person that has come forward  
20 to identify themselves that they were in any way, you  
21 know, in -- you know, kept from voting or inconvenienced  
22 by voting.

23 So the answer to your question is, that I  
24 look at the data that has been collected from the states  
25 that have implemented, and they're coming forward. That

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1 is the case. Plus the fact that if you ask African  
2 Americans or Hispanics in Texas, it's a very  
3 straightforward question. When you have 82 percent of  
4 the public, the people that you represent, saying, you  
5 know, "I think that's a good ideal," I'm having a lot of  
6 trouble understanding how -- why you don't understand

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7 that.

8 SEN. WEST: Okay. So the answer to my  
9 question is, is that you did not conduct any type of  
10 research on it other than looked at opinion polls and  
11 referenced what went on in other states?

12 SEN. FRASER: No, we've done all --  
13 there's been a lot of research done.

14 SEN. WEST: And that's what I was asking.  
15 What research have you done --

16 SEN. FRASER: I just explained --

17 SEN. WEST: -- to make that determination?

18 SEN. FRASER: -- to you what we did. We  
19 have looked at the experience of other states. And  
20 you're going to have witnesses come from some of the  
21 other affected states, and you're going to be able to  
22 ask that question: Who has come forward in your state  
23 and said it's a problem?

24 SEN. WEST: Okay. So you're saying, then,  
25 that as a result of experiences in other states and an  
0166

1 opinion poll, that that is the sum total of the research  
2 that's been done by you in preparation of this bill?

3 SEN. FRASER: Senator, I think the people  
4 in your district understand very clearly. If you ask  
5 them a direct question, someone you represent, and said,  
6 "Do you favor or oppose requiring a valid photo ID  
7 before you're allowed to vote," this is -- that's not  
8 rocket science.

9 SEN. WEST: Well, the --

10 SEN. FRASER: "Should you be required to  
11 show your picture ID when you go into vote?" That's --  
12 that's -- to me, that's -- that's, you know, pretty  
13 telling.

14 SEN. WEST: Well, the great thing about it  
15 is, we're going to have an opportunity to do just that.  
16 Because guess what? I've got a few people from my  
17 district down here to testify, so you'll have an  
18 opportunity to ask them that. Okay?

19 SEN. FRASER: Good.

20 SEN. WEST: But, again, that's the sum  
21 total of your research, though. Right?

22 SEN. FRASER: I didn't say that was the  
23 sum total of my research.

24 SEN. WEST: Now, would you agree that  
25 Texas has a larger proportion of minorities than  
0167

1 Indiana?

2 SEN. FRASER: Not advised.

3 SEN. WEST: So if -- if the demographic  
4 information that we have from the U.S. Department of  
5 Census indicated that, you would not disagree with that.  
6 Correct?

7 SEN. FRASER: Well, I mean, every state  
8 has a different demographic of the makeup of people

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9 within the state.

10 SEN. WEST: Sure. I know that, yeah.

11 SEN. FRASER: Georgia is a -- you know,  
12 they're -- they're a Section 5 voter rights state, but  
13 their makeup is not exactly like Texas.

14 SEN. WEST: That's the point. That's what  
15 I'm asking you. You said you weren't advised, so I was  
16 just trying to point to you some set of facts that all  
17 of us commonly know that we get from the Department of  
18 Census, U.S. Department of Census. And if they give  
19 different demographic information for the states, then  
20 that would probably be controlling, and you would agree  
21 that that's the best evidence that we have of what the  
22 population is in those various states. That's all I'm  
23 asking. Now, let me ask this.

24 SEN. FRASER: But you're trying to answer  
25 my question, and I did not say that.

0168

1 SEN. WEST: No, I'm not. But are the  
2 forms of identification listed in your bill the least  
3 restrictive options in order to achieve the goal of  
4 avoiding what you call voter identification fraud?

5 SEN. FRASER: Okay. You're going to have  
6 to ask that again.

7 SEN. WEST: Are the forms of  
8 identification that you've listed in the bill the least  
9 restrictive options in order to achieve the goal of  
10 avoiding what you have said is voter identification  
11 fraud?

12 SEN. FRASER: And I think what you're  
13 asking, which is going to be the easiest to use? And  
14 the -- the data, if you look back at 2006, the number of  
15 people that have registered to vote, about -- I think  
16 the number now is 91 percent actually use their driver's  
17 license when they registered to vote. So the assumption  
18 is at least 91 percent of the people that voted -- or  
19 that registered since 2006 had a driver's license. So  
20 I'd say that's the -- if it's the -- the easiest thing,  
21 I'd say a driver's license.

22 SEN. WEST: So this -- the list of  
23 identifications that you use as the -- is the least  
24 restrictive options that you could come up with?

25 SEN. FRASER: Well, I don't -- I'm not

0169

1 sure. Your verbiage you're using, I don't know that  
2 that's the intent.

3 SEN. WEST: Well --

4 SEN. FRASER: I'm saying that the thing  
5 that the -- the type of identification that is most  
6 readily available appears to be a driver's license.  
7 It -- we think, that is.

8 SEN. WEST: Okay. Now, since there are  
9 studies that show that African Americans and Hispanics  
10 are more affected by poverty and --

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11 SEN. FRASER: Ask him, then.  
 12 We're trying to figure out if this is a  
 13 filibuster.  
 14 SEN. WEST: Is it a what?  
 15 SEN. FRASER: A filibuster?  
 16 SEN. WEST: Oh, no, this is serious  
 17 business. This is serious business.  
 18 SEN. FRASER: I guess I would remind you  
 19 that the information that was put into the record this  
 20 morning by Senator Huffman, the questions you've gone  
 21 over, I believe we put these --  
 22 SEN. WEST: Well, at any -- at any point,  
 23 you can defer to whomever you want to answer the  
 24 question.  
 25 SEN. FRASER: No, no, I'm saying --

0170  
 1 SEN. WEST: You've been referring to the  
 2 Secretary of State.  
 3 SEN. FRASER: -- these -- the questions --  
 4 the questions you're asking, the question and the answer  
 5 are already in the record from two years ago; that  
 6 you're asking the exact same question, and I'm answering  
 7 the exact same answer. It's already in the --  
 8 SEN. WEST: And it may very well be. I  
 9 just don't remember. I haven't gone back and read that  
 10 entire record. It was like 26 hours. So if I'm being a  
 11 little bit redundant, please give me -- give me a little  
 12 space on that.  
 13 Let me go back to the questions I'm  
 14 asking. Studies have shown that African Americans and  
 15 Hispanics are more affected by poverty and, therefore,  
 16 are more likely to participate in government benefit  
 17 programs. Will the elimination of the government  
 18 documents as a form of ID disproportionately affect  
 19 African Americans and Hispanics?  
 20 SEN. FRASER: I'm not advised.  
 21 SEN. WEST: Okay. If in fact -- well, let  
 22 me back up and ask you this question.  
 23 Do you agree that African Americans and  
 24 Hispanics are disproportionately affected by poverty in  
 25 the state of Texas?

0171  
 1 SEN. FRASER: Not advised.  
 2 SEN. WEST: Okay. Do you --  
 3 SEN. FRASER: I grew up in a pretty poor  
 4 family, so --  
 5 SEN. WEST: Well, that's what I know, and  
 6 correct me if I'm wrong because we've had our  
 7 conversations. Your father was a minister, too. Right?  
 8 SEN. FRASER: Minister and --  
 9 SEN. WEST: Okay. He went to a lot of  
 10 African American churches?  
 11 SEN. FRASER: Yes, he did.  
 12 SEN. WEST: Did a little singing and stuff

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13 like that?

14 SEN. FRASER: Yes.

15 SEN. WEST: Okay. And do you represent a  
16 district that has a high poverty level -- or excuse  
17 me -- a high ethnic minority population?

18 SEN. FRASER: Interestingly -- well, and  
19 what you call high, it is not one of the highest  
20 percentage wise of ethnic minority. But the last figure  
21 I was shown, my district is the third poorest district  
22 in the state, right behind Senator Uresti's. That  
23 that -- that number is a couple of year's old, but  
24 I'm -- you know, the --

25 SEN. WEST: Okay.

0172

1 SEN. FRASER: -- people in my district  
2 are -- are the working poor.

3 SEN. WEST: Okay. The -- the protected  
4 classes, that would be an African American and  
5 Hispanics, do you have a high concentration of African  
6 Americans and Hispanics in your district?

7 SEN. FRASER: Well, I don't know what  
8 you'll call a high percentage. I've got --

9 SEN. WEST: Okay. Comparatively speaking.

10 SEN. FRASER: There -- there are a lot of  
11 my voters in my district that, you know, I'm -- I love  
12 to say "my constituents" -- that are African American or  
13 Hispanic.

14 SEN. WEST: Are they in poverty or what?  
15 I mean, you know what poverty is.

16 SEN. FRASER: Well, Senator, if --

17 SEN. WEST: Oh.

18 SEN. FRASER: If I have the third poorest  
19 district in the state, that implies that we have some  
20 people that are working poor.

21 SEN. WEST: Let me just ask you this  
22 question.

23 Do you know whether or not the elimination  
24 of the government documents that have hereto before been  
25 utilized by voters for identification purposes at the

0173

1 polls --

2 SEN. FRASER: Issued before?

3 SEN. WEST: Yeah, I mean, under current  
4 law. Let me back up, then.

5 Based on current law and the various  
6 government identifications that can be used for purposes  
7 of voting, by eliminating those, whether they have an  
8 adverse impact on ethnic minorities in the state?

9 SEN. FRASER: Let me -- let me tell you  
10 that the people in my district voted -- or they're  
11 polling that they -- 92 percent of them say that they're  
12 in favor of this -- this requirement.

13 SEN. WEST: Okay. So you don't -- and  
14 that's your response to my question?

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15 SEN. FRASER: My response is, is that I  
 16 think the people of the state of Texas, which makes  
 17 up -- I think it was 83 percent of -- of African  
 18 Americans and 85 percent of Hispanics, said that they're  
 19 in favor of it. I'm sorry. It's 82 percent Hispanic --  
 20 I'm sorry -- Hispanic, 80 -- 83 percent Hispanic, the  
 21 African American, which is -- it's listed as a black  
 22 vote, is 82 percent say they are in favor of asking for  
 23 a photo ID.

24 So it's -- it's -- this is a pretty easy  
 25 question for them, "Should you have to show your -- your  
 0174

1 photo ID, your driver's license, when you come in to  
 2 vote?" And they said, "Sure. That's" -- you know,  
 3 "That's fair."

4 SEN. WEST: And that's your response to my  
 5 question?

6 SEN. FRASER: Yes.

7 SEN. WEST: Okay. No more questions at  
 8 this time.

9 SEN. FRASER: Thank you, Senator.

10 CHAIRMAN DUNCAN: Chair recognizes Senator  
 11 Lucio for questions.

12 SEN. LUCIO: Thank you, Mr. Chairman.

13 Senator Fraser, under this legislation,  
 14 there are no exceptions at all if you do not have a  
 15 driver's license -- and correct me if I'm wrong --  
 16 military ID, citizenship certificates, or passports.  
 17 Now, not even Senate IDs are appropriate for the  
 18 purposes of voting. That means the state employee  
 19 working in the building wishing to cast a ballot during  
 20 early voting at the Sam Houston Building couldn't use a  
 21 combination of their voter registration card and their  
 22 Senate ID. Further, this bill's requirements for  
 23 identification are stronger than what's used for new  
 24 employees in obtaining driver's license, the way we  
 25 understand it.

0175

1 Now, I know many people don't think it's  
 2 all that difficult to get a driver's license and that  
 3 everyone has one, but that's just not the case.  
 4 Eleven percent of Americans surveyed by the Brennan  
 5 Center for Justice do not have government-issued photo  
 6 ID. Forty percent of those without voter ID are  
 7 disproportionately the -- the elderly, the -- the  
 8 students, women, people with disabilities, low-income  
 9 people, and people of color.

10 According to disability advocates, nearly  
 11 10 percent of the 40 million Americans with disabilities  
 12 do not have any state-issued photo ID. So I do not see  
 13 how this legislation is going to ensure that they are  
 14 not kept from exercising their right to vote. Again,  
 15 it's a right. It's not a privilege. Plus, according to  
 16 that same survey, one of every five senior women does

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17 not have a license.

18 What troubles me even more about the  
19 legislation is that it could mean, for so many, under  
20 this legislation, election workers will be responsible  
21 for determining identity; and that has never been part  
22 of their job as election clerks.

23 Now, I got a question.

24 SEN. FRASER: Is there a question coming?  
25 I'm looking for the question.

0176

1 SEN. LUCIO: Yeah, it's coming up. I had  
2 to --

3 SEN. FRASER: You've got about five or six  
4 thoughts. I -- well, I'm going to --

5 (Simultaneous speaking)

6 SEN. FRASER: -- one of them. But you're  
7 getting so many thoughts, I'll have trouble responding  
8 to them.

9 SEN. LUCIO: What are -- what are they  
10 going to do, Senator Fraser, when someone has  
11 conflicting last names, conflicting last names on IDs,  
12 on their voter rolls, and how many professional ballots  
13 will be cast? Are counties ready to resolve all those  
14 issues?

15 That might have been asked, I missed it,  
16 and I apologize for that because we've been busy, as we  
17 always are. But let me -- let me just ask this  
18 question, as a follow-up.

19 (Simultaneous speaking)

20 SEN. FRASER: You've asked me 12 --

21 SEN. LUCIO: Go ahead and address --

22 SEN. FRASER: -- so far.

23 SEN. LUCIO: Go ahead and address that  
24 one.

25 SEN. FRASER: Huh?

0177

1 SEN. LUCIO: Okay. Well --

2 CHAIRMAN DUNCAN: Wait, wait, wait, wait,  
3 wait. Y'all are really crossing over to where you're  
4 not making a good record, so one at a time. I think  
5 Senator Fraser was answering a question; and if he could  
6 answer it and, Senator Lucio, you could follow with  
7 another question.

8 SEN. FRASER: And, Senator, if -- if you  
9 really do want an answer to questions, I would love to  
10 do one at a time because I actually --

11 SEN. LUCIO: Okay.

12 SEN. FRASER: -- you've asked so many  
13 questions, I can't remember --

14 SEN. LUCIO: Okay.

15 SEN. FRASER: -- the first one.

16 CHAIRMAN DUNCAN: All right.

17 SEN. FRASER: But --

18 CHAIRMAN DUNCAN: Wait. You're doing it

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19 again, Senator. If we could -- I'm going to stay on  
20 this because we do want a good record.

21 SEN. FRASER: If you'll just allow me to  
22 just answer a couple of them, and then we'll get them  
23 out of the way.

24 SEN. LUCIO: I'll take one at a time.

25 What are you going to do when someone has  
0178

1 conflicting last names on their ID on the voter rolls?

2 SEN. FRASER: Okay. I'm going to start  
3 even further back than that.

4 I -- the -- the first observation you made  
5 is that we're making it harder than getting a driver's  
6 license. That is totally incorrect. Driver's license  
7 is one of the things we're offering, so whatever  
8 difficulty it is to get a driver's license, once they  
9 get it, that is their identification. So this is not in  
10 any way harder than getting a driver's license.

11 No. 2, you made an observation about the  
12 elderly. We have two different observations that --  
13 that come into play here. First one is that at -- if  
14 they're 70 years old on January 1st, 2012, they are not  
15 subject to this bill, so they are -- they are operating  
16 under current law. And then, also, we are not in any  
17 way impacting the mail-in ballot system that is in place  
18 today. Any elderly person that wants to vote by mail  
19 would -- would have the ability to do it.

20 So, you know, those things, I think,  
21 are -- the question you're asking, the third question,  
22 about if the name does not match on the -- the ballot,  
23 that's the same question that's been asked probably five  
24 times already today. My answer continues to be the  
25 same, as I've told everyone. We have the Secretary of  
0179

1 State coming. I don't -- I don't know the -- the exact  
2 ruling of what they -- the Secretary of State, slash,  
3 the election administrator is how they determine that;  
4 and I would like that question to be asked to the  
5 Secretary of State, if possible.

6 SEN. LUCIO: Okay. That's fine, Senator.

7 To obtain a driver's license, you could  
8 use nonphoto options. Correct?

9 SEN. FRASER: Senator, you can ask that of  
10 the DPS.

11 SEN. LUCIO: I'm sorry?

12 SEN. FRASER: If you would -- DPS is going  
13 to be here. I would ask you that you could ask the DPS  
14 their procedures for -- for getting...

15 SEN. LUCIO: Okay. Well, I have  
16 information to that effect, but it's all right. I'll  
17 wait for DPS.

18 Let me ask a question on -- on where we  
19 have been in this country and this state, and we don't  
20 want to go.

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21 But do you know what the 24th Amendment  
22 did?

23 SEN. FRASER: I'm sorry. I do not.

24 SEN. LUCIO: It ended -- it amended the  
25 constitution to allow -- outlaw poll taxes; and it did  
0180

1 so, and it ended in 1964. I was a freshman in college  
2 at the time, and you must have been junior high.

3 SEN. FRASER: I was four or five, then,  
4 Eddie, I guess. '64, I was 17 years old.

5 SEN. LUCIO: All right. I did a little  
6 research, Senator, on the poll tax in --

7 SEN. FRASER: 15 years old.

8 SEN. LUCIO: -- Texas history. It's  
9 something that personally hurts me. After all, my dad  
10 had to pay a poll tax which wasn't that long ago. I  
11 went to some of those elections with him because he  
12 wanted to show me and make sure that I got involved in  
13 the political process. I remember those elections, and  
14 my -- my mother voted, too. But it was -- it was a  
15 sacrifice, quite frankly.

16 Now, Texas adopted a poll tax in 1902. It  
17 required that otherwise eligible voters pay between  
18 \$1.50 and \$1.75 to register to vote. Now, \$1.75 may not  
19 sound like a lot, but for a lot of families living on  
20 the breadline, it made voting a privilege instead of a  
21 right. Well, 1.75 -- \$1.75 adjusted for inflation today  
22 is about 40 to \$45. That means, Senator, that's a mean  
23 instrument -- excuse me -- using several ways of  
24 calculating, including the consumer price index.

25 Now, 40 bucks is a symbolic figure. A

0181  
1 driver's license or ID today costs \$25, even for a  
2 renewal. And going to the DMV, which is Department of  
3 Motor Vehicles, can take time. You're going to get  
4 there, wait in line, return home, take off from work,  
5 pay for the gas. Now, let's say it takes two hours.  
6 Minimum wage in Texas is 7.25 an hour. So if you took  
7 off two hours and paid for gas, you're looking at \$40,  
8 the same amount of the old poll tax would cost today.  
9 Don't -- don't you find that kind of ironic? I do.

10 Under this bill, voters will effectively  
11 have to pay the same amount to vote that minorities and  
12 the poor had to pay in poll tax in 1902. I'm serious,  
13 though. Forty dollars is a lot of money for a lot of  
14 people in my district living paycheck to paycheck. You  
15 can buy a week's shopping for 40 bucks. You're either  
16 going to eat or you're going to -- you're going to vote.  
17 That is the choice many will think about making.

18 The poll tax was outlawed in -- in the  
19 1960s by the 24th Amendment. It was outlawed because  
20 the nation understood that poll tax -- taxes served as  
21 one purpose, to --

22 (Simultaneous speaking)

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23 SEN. LUCIO: -- disenfranchise minorities  
24 and the vulnerable.

25 I'm leading to another question, if I may.

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1 Texas has a history, unfortunately, in my  
2 opinion of voter suppression. Texas used the poll tax  
3 to suppress voters. In fact, Texas only ratified the  
4 24th Amendment in 2009, 2009.

5 So what is to stop future legislators  
6 making a driver's license or an ID cost more than \$25?  
7 We've talked openly over the last few months about  
8 raising fees to cover the back -- the budget hole. So,  
9 you know, it's -- it's happened with passports.  
10 Passports keep going up and up in price. What if in the  
11 future, driver's license cost \$125 or \$300? Would it be  
12 a poll tax then? And would it be a poll tax then,  
13 Senator?

14 SEN. FRASER: Senator, this bill in no way  
15 envisions a poll tax. It has nothing to do with the fee  
16 that is charged. You're on finance. You're the one  
17 that has control over that. The bill we have before us  
18 today -- there's nothing you've talked about the last  
19 five minutes that has anything to do with this bill --  
20 is that this bill is nothing more than showing your  
21 driver's license or a ID that we will give them free of  
22 charge that they can pick up after work that -- you  
23 know, when I was picking cucumbers and -- you know, in  
24 the afternoon, when I got off work, I could -- I still  
25 had time before seven o'clock to go down and -- to the  
0183

1 driver's license place to get the driver's license. So  
2 this has -- this bill in no way has anything to do with  
3 a poll tax.

4 SEN. LUCIO: Well, and I -- I appreciate,  
5 you know, what you're saying. However, I just want to  
6 make sure that it doesn't get out of hand. And I would  
7 ask you, possibly, if you would vote, you would be  
8 prepared to work with me and others to -- in order to  
9 draft a constitutional amendment that would make any  
10 raise in fees associated with driver's license or state  
11 ID only possible by a two-thirds vote of each chamber.  
12 You think that we could work to that end?

13 SEN. FRASER: Senator, I'm -- I'm not  
14 going to commit on anything. You're on finance. Y'all  
15 are going to have to work through the issues of  
16 balancing the budget.

17 The bill that I'm laying out today, I  
18 think, is a very fair way for people to identify  
19 themselves, that they can prove they are who they say  
20 they are when they go to vote. The -- the thing that I  
21 would let you know that, you know, I want to make sure  
22 that every -- we've -- we've talked to senator -- you  
23 know, the -- Davis has asked about women. I want to  
24 make sure that women, men, Hispanics, African Americans,

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25 Anglos, everyone in the state has the same opportunity

0184

1 to go in and make sure that their vote is counted. And

2 I don't -- the things you're talking about really are

3 not part or subject to this bill.

4 SEN. LUCIO: Well, a driver's license is

5 part of it, I believe, and I'll be --

6 SEN. FRASER: But -- but the cost of a

7 driver's license is determined by the Finance Committee.

8 SEN. LUCIO: When -- when -- when does a

9 driver's license expire? I was going to ask you that

10 question.

11 SEN. FRASER: When does it expire?

12 SEN. LUCIO: Yes, sir.

13 SEN. FRASER: You know, interestingly, I

14 was in -- looking at mine just then, in my office. I

15 got a new one this year, and it's good for six years.

16 So every six years, evidently. I'm -- I'm going to ask

17 DPS that, but my assumption is that a driver's license

18 is renewed to last for six years.

19 SEN. LUCIO: Well, we talked about senior

20 citizens. There are senior citizens, 60, 70 years old,

21 who used an expired driver's license as a form of ID.

22 That's where I'm going with my questions and my remarks.

23 Are they no longer -- they no longer drive, but they

24 still vote.

25 Now, under this bill, they will have to

0185

1 renew their license in order to vote. Is that correct?

2 SEN. FRASER: You -- you've given a

3 hypothetical, and I guess it's one of the things --

4 actually, we were in the back discussing a question that

5 was brought up by Senator Davis about an expired

6 driver's license and at what point should it be -- how

7 long should it be used. I think someone used it for an

8 extended period, like the example you're giving, for

9 several years. Unfortunately, that's not a valid --

10 that would be considered a valid license.

11 SEN. LUCIO: I was under that impression

12 or to renew their passport or -- which are seldom used

13 by seniors.

14 SEN. FRASER: I disagree with that. I

15 travel with a lot of seniors. I think there's a lot,

16 you know.

17 SEN. LUCIO: Well, the ID. They use this

18 ID for passports.

19 Well, I obviously have a bunch of other

20 questions, but in the -- in the interest of time, I will

21 address these to you in writing because I'm very, very

22 concerned about, you know, some of the things that are

23 going to be transpiring. I think Senator Davis touched

24 on marriage -- the marriage -- marriage issues.

25 Or I'll give you one scenario, if I may.

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1 Two citizens that are getting married. The woman  
 2 getting married has decided to change her name. They  
 3 get the marriage certificate. They get married and so  
 4 on. But when the newlywed wife tries to vote, there is  
 5 a problem. The name on her voter ID does not match the  
 6 name on her voter registration. So maybe she did the  
 7 right thing and changed her name on the voter ID, but  
 8 before that, when she registered to vote, she had used  
 9 her maiden name. Maybe she registered to vote with her  
 10 new married surname but had not had yet changed her  
 11 voter ID to reflect a change of name. Maybe there is no  
 12 time to address it because she gets married in October.

13 SEN. FRASER: Senator, these --

14 SEN. LUCIO: Those are just scenarios that  
 15 are coming up.

16 Others that I'm concerned with are the 18  
 17 year olds that are turning 18 thirty days inside of --  
 18 you know, between a primary and a general election.  
 19 Many of them will not be able to register to vote.

20 There are so many different scenarios,  
 21 Senator, and I'm very concerned about whether or not  
 22 they will be disenfranchised. That's all. Thank you  
 23 very much for your time.

24 CHAIRMAN DUNCAN: Senator Van de Putte?

25 SEN. VAN de PUTTE: Thank you,

0187

1 Mr. Chairman.

2 Would author of the bill yield for some  
 3 clarification?

4 SEN. FRASER: I would yield.

5 SEN. VAN de PUTTE: Thank you very much,  
 6 Senator Fraser. I wanted to have a moment to clarify  
 7 some of the conversation and the points that we had on  
 8 our discussion earlier.

9 I thought that I had heard you say that  
 10 the bill that we had in the 81st Legislature was  
 11 actually modeled after Georgia. When after comparison,  
 12 I think that it was actually modeled more closely after  
 13 the Arizona bill, which is a Section 5 voting rights  
 14 state as well. And so I wanted to clarify that, but I  
 15 thought we had talked so much about the Georgia  
 16 legislation. So the -- the bill, Senate Bill 362, was  
 17 actually modeled more after Arizona's law.

18 SEN. FRASER: Senator --

19 SEN. VAN de PUTTE: And I --

20 SEN. FRASER: I am -- I don't want to  
 21 disagree with you, but I don't think Arizona's ever came  
 22 out of my mouth on this floor of the legislature about  
 23 last year's bill or this bill.

24 SEN. VAN de PUTTE: No.

25 SEN. FRASER: I'm -- the -- the bill that

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1 we modeled last year was a Texas model that we were  
 2 moving forward, and whenever earlier you were addressing

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3 the Georgia bill -- you're a past president of NCSL, and  
4 I have the NCSL analysis here. And that's the reason I  
5 was confused because you were referencing Georgia, and  
6 I've got --

7 SEN. VAN de PUTTE: That's correct.

8 SEN. FRASER: The document that came from  
9 the organization that you chaired and that was the  
10 reason I was confused about what you were representing.

11 SEN. VAN de PUTTE: Well, Senator, you  
12 were confused, and I was confused. However, both -- I  
13 think we can both agree that your bill, Senate Bill 14,  
14 is more restrictive than current Georgia and Arizona  
15 law; that this is based after an Indiana model, but it  
16 is even more restrictive. I mean, you have a pretty  
17 tight vote --

18 SEN. FRASER: I -- I --

19 SEN. VAN de PUTTE: -- of the bill.

20 SEN. FRASER: I disagree with you on that,  
21 that there are -- are small things that we're different  
22 on, which basically is the number of things that you can  
23 use for identification. But there are a list. I think  
24 they have six in Indiana. We have four in Texas. We're  
25 under discussion about that four, should it be expanded.

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1 So saying that they're very different is  
2 not a correct observation. There is very small  
3 differences between the -- the Indiana, Georgia, or  
4 Texas. They're actually very, very much alike, and that  
5 also gives us the reason we believe it will be approved  
6 by the Supreme Court and DOJ.

7 SEN. VAN de PUTTE: Well, I wanted the  
8 opportunity to correct myself because Georgia only  
9 allows for an alternate two forms in a provisional  
10 ballot for first-time voters only, and so they do not  
11 allow -- and I stand corrected. You are correct that  
12 they don't have two forms of alternate that are not a  
13 photo ID. The only time in the Georgia law that they  
14 make reference to two forms -- and that's what I was  
15 looking at and they have other things that they can use,  
16 a bank statement, a current utility bill, a paycheck --  
17 is when they are casting a ballot for the first time and  
18 they have -- they are new registrants and they don't  
19 have a photo ID.

20 So I stand corrected. You are correct in  
21 that for a provisional ballot, they do not allow two.  
22 The only time they do -- and I'm looking at their  
23 Senate -- their -- their bill -- is on a -- and I stand  
24 corrected. So I wanted to let you know that I misspoke.  
25 That is not correct. It's only the two alternate forms

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1 when they're doing for first-time registrants.

2 SEN. FRASER: Thank you for that  
3 correction, and that -- that is -- the documentation I  
4 show does show that they require a photo ID.

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5 SEN. VAN de PUTTE: And so I just want to  
 6 thank you for the ability to clarify this and know that  
 7 this is your -- this is a Texas bill, and it'll probably  
 8 be known as the Texas bill. And -- and -- and to your  
 9 credit, for every -- all the work that you've done, I  
 10 believe it is very stringent in small ways in the  
 11 wording. But for the groups of people that I think will  
 12 have a burden, they -- they have no alternate means.

13 So thank you very much for the opportunity  
 14 to clarify. And, Mr. Chairman, I don't have any other  
 15 questions of the author.

16 CHAIRMAN DUNCAN: Senator Ellis?

17 SEN. ELLIS: Just a couple questions,  
 18 Senator. I know you're tired. You've been up a long  
 19 time.

20 From your opening statement, the primary  
 21 reason for this bill is because of your concern about  
 22 voter fraud. Right? Voter fraud, that's the primary  
 23 reason --

24 SEN. FRASER: The integrity --

25 SEN. ELLIS: -- for the --

0191

1 SEN. FRASER: -- of the ballot, making  
 2 sure that the person that is trying to vote is who they  
 3 represent to be.

4 SEN. ELLIS: And if that's the case, why  
 5 wouldn't you apply a voter -- photo voter identification  
 6 requirement to mail-in ballots? Don't you think there's  
 7 probably room for more fraud for the mail-in ballots?

8 SEN. FRASER: I will support you a hundred  
 9 percent. You file that bill, you come forward with it,  
 10 and we'll talk about it. But this bill does not in any  
 11 way address mail-in ballots. This is only in-person  
 12 voter --

13 SEN. ELLIS: But you -- but you will  
 14 concede that there's probably room, just from a  
 15 layperson's perspective? Neither you nor I are experts  
 16 on it, and I'm just asking you to make the point. Will  
 17 you concede that there's room -- there's potential for  
 18 more fraud with a mail-in ballot than with somebody  
 19 showing up?

20 SEN. FRASER: I'm going to concede that  
 21 the bill that I'm laying out today will help a lot with  
 22 the in-person, you know, potential of fraud, and it will  
 23 make sure the person there is -- is who they say they  
 24 are.

25 SEN. ELLIS: If you just had to guess,

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1 would you think people who are more apt to do a mail-in  
 2 ballot would be people in the red jersey or the blue  
 3 jersey?

4 SEN. FRASER: I wouldn't be apt to guess.

5 SEN. ELLIS: Do you care?

6 SEN. FRASER: Oh, I care a lot, but I'm

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7 not going to guess.

8 SEN. ELLIS: Okay. You heard the  
9 discussion earlier about the concern -- I think even in  
10 your district, some of those DPS offices, I think, on  
11 that map may be closing a few days a week. So you --  
12 you did say that you have some concern about access for  
13 people to go and get --

14 SEN. FRASER: It -- it is a discussion  
15 going on, and it's -- you know, there -- I actually was  
16 grinning as they were talking about the -- the -- you  
17 know, the offices, is that I have the same challenge  
18 sometime; and, you know, you've got to work to make sure  
19 that they're open.

20 But that's a discussion we're having  
21 with -- with Senator Williams. He's having a discussion  
22 with DPS, and we're -- we're trying to look at, through  
23 his committee, the Finance Committee and communicate with  
24 DPS, the -- the easiest way to make sure that everyone  
25 can -- can comply.

0193

1 SEN. ELLIS: But you'll agree, it's a  
2 problem? There's some concerns about it?

3 SEN. FRASER: I don't know that I'll agree  
4 that it's a problem. Problem implies that, you know,  
5 there are -- everyone works through it. I've got a  
6 driver's license. You've got a driver's license.  
7 Probably, I would love for them to come in my office and  
8 take my picture, but it doesn't work that way. I have  
9 to go and put out the effort to go and get it. And  
10 that's the system we have, and we just need to make it  
11 as easy as possible.

12 SEN. ELLIS: Well, what prompted you,  
13 Senator, to carry this bill? I mean, was it  
14 something -- just laying up at night? Did somebody come  
15 to you? What -- you're such a handsome fellow, but why  
16 you?

17 SEN. FRASER: The -- and actually, I'll go  
18 back to -- you asked me the same question two years ago,  
19 and it's in the record. We just, you know, entered it.

20 Actually, this is over a number of years,  
21 just watching and looking at articles of things that  
22 happened. Obviously, there's a lot of press about  
23 the -- the Carter-Baker Commission of concern, and I  
24 watched the issue. And it was being asked a lot, as I  
25 was speaking out in the district, is that when are we

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1 going to, you know, address it. And I thought -- I  
2 thought the issue had matured, and I decided to file it.  
3 If you -- if you remember, this is the third session I  
4 filed this bill.

5 SEN. ELLIS: Well, I've always known you  
6 to be a member, Senator, who digs into an issue. You --  
7 you read a lot.

8 Why would you say a new photo ID? Why

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9 wouldn't you just make a -- have a bill that has a  
 10 requirement that we put a photo on the voter  
 11 registration card? I mean, wouldn't you agree?  
 12 Probably more people have a voter registration card in  
 13 Texas than have a driver's license.

14 SEN. FRASER: That -- well, I don't --

15 SEN. ELLIS: Okay. All right.

16 SEN. FRASER: I don't --

17 SEN. ELLIS: You think more people in

18 Texas --

19 SEN. FRASER: -- think that's true.

20 SEN. ELLIS: -- have a driver's license?

21 SEN. FRASER: I don't -- I'm having the

22 chairman of the committee that is over it --

23 interestingly, I want you to think about what you just

24 suggested, is that driver's license is going to be the

25 easy form of identification. We -- we know that 90-plus

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1 percent of the people -- and I think the number is

2 probably higher than that -- have a driver's license in

3 Texas.

4 But if you're going to put a picture on a  
 5 voter registration, that means that every single person  
 6 that's registered to vote has to go back in, have a  
 7 picture made, have the cost of putting it on there. So  
 8 it's not only the cost --

9 SEN. ELLIS: Let me try it a different

10 way. Do you think that more people who are registered

11 to vote -- you think that more people who are registered

12 to vote would have the voter registration card than a

13 driver's license?

14 SEN. FRASER: Say it again. Do it one

15 more time.

16 SEN. ELLIS: Do you -- would you agree

17 that more people --

18 CHAIRMAN DUNCAN: Senator? Senator Ellis,

19 y'all are talking over each other. If you --

20 SEN. ELLIS: Oh, are we? Should I back

21 up?

22 CHAIRMAN DUNCAN: Yeah -- no. No.

23 Just --

24 SEN. ELLIS: I'll talk slower.

25 CHAIRMAN DUNCAN: -- when he starts to

0196

1 answer the question, let him answer it and then ask

2 another question so only one person is speaking at a

3 time.

4 SEN. ELLIS: Okay.

5 CHAIRMAN DUNCAN: Thank you.

6 SEN. ELLIS: Are you through?

7 SEN. FRASER: I'm not even sure what the

8 question was.

9 SEN. ELLIS: The question is, would you

10 agree that more people who vote have a voter

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11 registration card than a driver's license? They'd have  
12 to because you've got to -- you're supposed to go get a  
13 voter registration to be able to vote.

14 SEN. FRASER: Can I answer your question?

15 SEN. ELLIS: Yeah.

16 SEN. FRASER: I'm -- I'm sure everyone at  
17 some point were mailed one, but it has been years since  
18 I walked in with a voter registration card. I show my  
19 driver's license when I vote, and I would say probably  
20 that is -- do you show yours, or do you show your  
21 driver's license?

22 SEN. ELLIS: I show my driver's license.

23 SEN. FRASER: Well, there's -- but you  
24 have -- you probably were mailed a voter registration.

25 SEN. ELLIS: I have both.

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1 SEN. FRASER: Okay.

2 SEN. ELLIS: Let me ask you this: There's  
3 an article in today's paper. It says nearly 650,000  
4 Texans who refuse to pay surcharge penalties for drunken  
5 driving, no insurance, and other violations are being  
6 offered a one-time amnesty by the state. Those offered  
7 amnesty represent just over half of the estimated  
8 1.2 million Texans in default. It talks about what they  
9 owe the state. But all of these folks who are in  
10 default, because we balanced the budget in '03 with  
11 surcharges for people who have a license, all have had  
12 their licenses suspended for not paying. So would that  
13 concern you any that, at least, according to folks who  
14 go get amnesty, that's 1.2 million. That would be more  
15 than that. There's 1.2 million owes the state X amount.  
16 That's what this article is about.

17 But would you concede it ought to be a  
18 problem because we've got a lot of people who had a  
19 driver's license, I assume the one's who owe the  
20 surcharges are -- you know, maybe a disproportionate  
21 number of them are folks who didn't have the money to  
22 pay the surcharges. Maybe some of them were just civil  
23 libertarians, didn't like the bill and wouldn't pay it  
24 period. But a lot of them are probably working-class  
25 people who can't pay it. So at least over 1.2 million

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1 Texans since 2003 have gotten their licenses suspended,  
2 so they will no longer have a valid driver's license  
3 that they could use to go and vote like you and I do.  
4 Does that concern you?

5 SEN. FRASER: Well, first of all, if -- if  
6 some reason it's a felony, that -- of the crime that  
7 they're not paying for, I'm not sure that they -- I  
8 guess I'd question whether they're eligible. I don't  
9 know the answer. We'd ask the Secretary of State that.

10 SEN. ELLIS: I don't think --

11 SEN. FRASER: But the easy answer to your  
12 question is, we're going to give them an ID free. So if

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13 they've lost their driver's license, all they got to do  
14 is go back down and get a free ID. We'll hand them a  
15 new one.

16 SEN. ELLIS: So you think the over  
17 1.2 million people who had their licenses suspended  
18 because of the surcharges this legislature put on them  
19 in 2003 is not -- they haven't been convicted of a -- of  
20 a felony. That's not on their record, but their license  
21 has been suspended. They're being offered amnesty,  
22 according to the article in today's paper. You think  
23 that those folks would go and get this new ID? You  
24 don't think they'd be worried about showing up and  
25 somebody saying, "Hey, by the way, now that I know where  
0199

1 you are, I want my money. I want some of this 1. --  
2 \$1.1 billion that you owe to the state?"

3 SEN. FRASER: I'm not advised.

4 SEN. ELLIS: Okay. One distinction,  
5 obviously, is these people still have a constitutional  
6 right to be able to vote.

7 One last point. On the exemption for the  
8 elderly, I don't know if I'm reading this right or not,  
9 but in your mind, is that a one-time exemption or would  
10 people over -- I think you and Senator West were going  
11 through the age deal earlier, and we have to find out  
12 from the Secretary of State which one of you hits 70  
13 first. But if you have -- the way I read your bill, if  
14 you don't hit 70 before that date in January, I believe,  
15 of 2012, then it wouldn't apply. So anybody on this  
16 floor who will be over 70 at some point or any of your  
17 constituents who will hit 70 after that date in January  
18 of 2012, would not have that exemption. Is that  
19 correct?

20 SEN. FRASER: Yes.

21 SEN. ELLIS: So your intent is that one  
22 time.

23 SEN. FRASER: No, it's not a one-time at  
24 all.

25 SEN. ELLIS: Continuous for people who are  
0200

1 already 70 after January of 2012?

2 SEN. FRASER: If you're 70 on January 1,  
3 2012, you will be subject to current law the rest of  
4 your life.

5 SEN. ELLIS: Okay. I want to make sure  
6 that's clear, because some folks have --

7 SEN. FRASER: If you're 70 on that --

8 SEN. ELLIS: -- called my office from  
9 AARP --

10 SEN. FRASER: Yes.

11 SEN. ELLIS: Okay.

12 SEN. FRASER: Yes.

13 SEN. ELLIS: So it's not for all people

14 over 70. Just those who will hit 70 by January of 2012.

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15 SEN. FRASER: If you're 70 on January 1,  
16 2012, you will be subject to the -- the -- not be  
17 subject to these provisions. You basically will be  
18 operating under current law for the rest of your life.

19 SEN. ELLIS: Are you confident, Senator,  
20 that your bill would not have a disparate impact on the  
21 elderly, on women, on those that are physically  
22 challenged, on racial ethnic minorities?

23 SEN. FRASER: I am --

24 SEN. ELLIS: Are you confident?

25 SEN. FRASER: -- absolutely sure. I would

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1 not have filed the bill if I had thought it -- I want to  
2 make sure that every person in the state has a right to  
3 vote. The -- not -- you know, the right that we extend  
4 them, they should have that, and I do not believe that  
5 in any way we're impacting that and that -- that -- you  
6 know, I want to make sure that the groups you're talking  
7 about, you know, women, minority, elderly, that they all  
8 have the right to vote; and I believe my bill does that.

9 SEN. ELLIS: Okay. And I know that's your  
10 intent.

11 SEN. FRASER: Yes.

12 SEN. ELLIS: But you're confident that it  
13 will have no impact?

14 SEN. FRASER: I'm very confident.

15 SEN. ELLIS: Okay. To that end, would you  
16 have a problem with putting a provision in this bill so  
17 that the Secretary of State would do an annual report on  
18 whether or not this bill has had a disparate impact?

19 SEN. FRASER: I think we're going to get  
20 our report back from the -- assuming it gets to the  
21 Supreme Court and Department of Justice, I believe we'll  
22 get our report card from that. And then through time,  
23 if there are -- and I'm going to go back to the examples  
24 of Indiana and Georgia. To my knowledge, there has  
25 never been a person that has reported that had a

0202

1 problem -- came forward because they had a problem with  
2 the laws they've, you know, implemented. We're doing  
3 exactly the same thing.

4 So I think you and I, as legislators, if  
5 there's a problem, will hear about it. And I would not  
6 want to put the burden on an agency. You know, if we  
7 hear about it, then we can do that in the future.

8 SEN. ELLIS: Maybe I'm just at a loss. If  
9 you -- I know your intent, and you are confident your  
10 bill will not have a disproportionate impact on certain  
11 groups. I mean, were the concern be the methodology,  
12 you could design that. But what would be wrong with the  
13 Secretary of State doing an annual report on whether or  
14 not this bill has a disproportionate impact on any  
15 groups of people so that we know? What -- I mean, you  
16 know, we -- oftentimes we pass -- I think we even have

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17 a -- I think it might have been Shapleigh who put it in  
18 some time ago, when we do a tax bill as a requirement,  
19 that we have LBB do a disparate impact statement just so  
20 we know because as you know, I mean, we're tinkering  
21 with a constitutional right.

22 And, Senator, I might add, we're in a  
23 state -- well, you know the history. I mean, initially,  
24 you had to be a property owner to vote or you had to be  
25 a male to vote, had to be a certain color to vote. Now,  
0203

1 over time, that has gotten better; but in our southern  
2 states, in particular, it has not been an easy journey  
3 to get to where we are. So what -- what would be wrong  
4 with just simply coming up with some simple methodology  
5 and let the Secretary of State do that?

6 SEN. FRASER: We have a simple  
7 methodology. It's called going into a session on the  
8 second Tuesday of every -- you know, every odd year.  
9 And you, as my desk mate, sitting beside me, I feel very  
10 comfortable that we'll -- we'll get that -- you know,  
11 we'll look at it every couple of years. So I -- I think  
12 the fact that we come back in, we're going to be given  
13 the opportunity every two years to -- to re-examine.  
14 And there will be discussion about this, of whether it's  
15 working or not.

16 SEN. ELLIS: To implement your bill,  
17 you're going to use federal money to be able to do it.  
18 Where would that money be used if it was not going to be  
19 used to implement this new system?

20 SEN. FRASER: Well, obviously -- and,  
21 again, I don't want to speak for the Secretary of  
22 State's office. When they're here, they can give you an  
23 ideal. But if there's a pretty good-sized pot of money  
24 that's sitting there that we haven't spent yet and  
25 we're -- you know, we're pretty good about being  
0204

1 creative about, you know, where you spend money. So I'm  
2 assuming that money is restrictive about where they can  
3 spend it, and I think probably this is a -- an  
4 application where it fits.

5 And I guess to answer to your question, I  
6 don't know. You can ask them, but I think this is a  
7 good place to spend it.

8 SEN. ELLIS: Would a new change go into  
9 effect in the next cycle?

10 SEN. FRASER: I'm sorry. Do that again.

11 SEN. ELLIS: With a new election change, a  
12 major requirement going into place for the next cycle  
13 with new districts, you and I have new districts, do you  
14 think it would make sense to give people the ability to  
15 register on that day with the photo ID you're requiring?

16 SEN. FRASER: No.

17 SEN. ELLIS: So could you go in and  
18 register on that day because some people are just maybe

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19 confused about this new requirement we're putting in  
20 place?

21 SEN. FRASER: We're going to spend a lot  
22 of time and hopefully dollars educating both the public  
23 and the -- the workers, and I think the system will work  
24 very well like it is.

25 SEN. ELLIS: Your bill looks -- I mean,  
0205

1 it's obviously a bit more stringent, bit more onerous  
2 than the bill you had last session. And based on the  
3 questions with you and, I think, Senator Van de Putte  
4 earlier, it looks like this bill is also more stringent  
5 than the Indiana bill that you modeled it after.

6 SEN. FRASER: That -- you missed the  
7 conversation we just had with -- with Senator Van de  
8 Putte. That is not the case. It actually is -- is a  
9 very, very small change between --

10 SEN. ELLIS: They take student --

11 SEN. FRASER: Huh?

12 SEN. ELLIS: They take student IDs --

13 SEN. FRASER: Well, I --

14 SEN. ELLIS: -- in Indiana?

15 SEN. FRASER: We -- we have four forms of  
16 IDs in this bill that we're accepting, but we're also  
17 listening to the debate. Indiana has six forms.  
18 Georgia I think expands it to about eight. So it's the  
19 number -- the type of, but they're all photo --  
20 government-issued photo IDs.

21 SEN. ELLIS: Okay. So I guess when I say  
22 it's more onerous, there are more people in Texas who  
23 would have a student ID than a passport.

24 SEN. FRASER: Not advised.

25 SEN. ELLIS: Okay. Do you know how many  
0206

1 Americans have a passport?

2 SEN. FRASER: Not advised.

3 SEN. ELLIS: Well, I know from the press  
4 counts, you and I have one. But -- but I'll just tell  
5 you --

6 SEN. FRASER: We don't -- we don't talk  
7 about that.

8 (Laughter)

9 SEN. ELLIS: We've gone to a few places  
10 together.

11 Six percent of the people, I think, in  
12 America have passports. I think about the lowest  
13 percentage for most nations in the top 20, 6 percent of  
14 the people in America have passports. So I guess I'm  
15 saying, why would you choose that as one of your forms  
16 of ID as opposed to a student ID when you know we have  
17 problems getting young people sometimes to focus for  
18 more than a week? But folks who have a passport, you've  
19 got to be fairly worldly, shall we say, to go get a  
20 passport. And if the number is 6 percent in America,

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21 I'm just guessing less than 6 percent of the people in  
22 Texas have a passport.

23 SEN. FRASER: We know the people that are  
24 issuing the passports. We don't know where all the  
25 student IDs are coming from because not all student IDs  
0207

1 are issued with, you know, our -- our input. So the  
2 easy answer to that is that we want to make sure that we  
3 have something that is easily recognizable to the poll  
4 worker, and we can verify that it is -- it is valid.

5 SEN. ELLIS: What if we tried to put in a  
6 student ID from a state institution so at least we did  
7 that.

8 SEN. FRASER: Senator, if you want to  
9 offer amendments, as I told Senator Gallegos, I draw  
10 them up, get it to you where I can look at it and get  
11 plenty of time to look at it. There's -- you know,  
12 we're going to look at every amendment. If you -- you  
13 know, you can throw anything out. We'll discuss it.

14 But, I mean, the thing we're trying to do  
15 is we're trying to make it easy as possible on the  
16 Secretary of State and the poll worker as we implement,  
17 making sure that it's easily identifiable but also, you  
18 know, is good public policy.

19 SEN. ELLIS: Well, I'm just asking -- now,  
20 I hate to take your time, but, I mean, you -- you put it  
21 on the fast track. I mean, I -- I'd like to be working  
22 on the budget or something else, but --

23 SEN. FRASER: I didn't put it --

24 SEN. ELLIS: -- since you put it on the  
25 fast track.

0208

1 SEN. FRASER: I didn't put it on the fast  
2 track. I'm -- you know, I did not put it on the fast  
3 track. I think the -- the person in the center office  
4 put it on a -- as an emergency bill and --

5 SEN. ELLIS: So you really don't want to  
6 do this, do you?

7 SEN. FRASER: I am standing here  
8 explaining it to you because I think it's good public  
9 policy.

10 SEN. ELLIS: I'll leave you alone after  
11 this one.

12 But based on the election results of the  
13 last cycle, what fraud will your side of the aisle be  
14 worried about? Senator Whitmire raised that with me the  
15 other day. I'm saying this: As well as your side did,  
16 seems like my side ought to be a little bit more worried  
17 about if there was some fraud.

18 SEN. FRASER: I think if you look at the  
19 polling in your district, your district is worried  
20 because they're telling you you need to vote for it; and  
21 I'm telling you, you're on the wrong side of this issue.

22 SEN. ELLIS: I respectfully would say you

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23 ought to be a little careful with that notion of what  
 24 polling data says. I'm willing to bet you, Troy, when  
 25 our predecessors stood on this floor and sat in these  
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1 seats and passed most of the restrictions, that at some  
 2 point were in state law, the polling data indicated they  
 3 were on the right side of history; but you and I know  
 4 they were on the wrong side of it.

5 SEN. FRASER: All I can tell you is the  
 6 question's pretty straightforward. It said -- they  
 7 asked the people in your area, "Should you have to show  
 8 a photo ID when you vote?" And the number across,  
 9 Republican, Democrat, Hispanic, African American,  
 10 others, were overwhelming.

11 SEN. ELLIS: Well, let me ask you this:  
 12 If I come up with some polling data that says they would  
 13 support same-day registration, recognizing student ID,  
 14 exempting people over 70 forever, not just for those who  
 15 hit 70 before the next election cycle, to what extent  
 16 would you be voting based on what the polling says?

17 SEN. FRASER: Well, come -- come forward  
 18 with your data. But I can tell you the things you've  
 19 mentioned, the only one that is applicable to this bill  
 20 is the -- the elderly because the same-day voting, those  
 21 other things, that's another issue for another day.  
 22 Doesn't fit on this bill.

23 SEN. ELLIS: Thank you.

24 CHAIRMAN DUNCAN: Chair recognizes Senator  
 25 Zaffirini.

0210

1 SEN. ZAFFIRINI: Thank you,  
 2 Mr. President -- or Mr. Chairman.

3 Senator Fraser, my first questions will  
 4 focus on the criminal justice impact, if you have a copy  
 5 of that.

6 SEN. FRASER: Well, excuse me, before  
 7 you -- what your first question should be, do I still  
 8 have my thick book that you were impressed with last  
 9 time. My --

10 SEN. ZAFFIRINI: Yes. I was --

11 SEN. FRASER: I reread the data last night  
 12 that you were going to instruct your staff asking them  
 13 why you didn't have one.

14 SEN. ZAFFIRINI: Well, good. I wish you  
 15 had it again.

16 SEN. FRASER: I do have it.

17 SEN. ZAFFIRINI: Good.

18 SEN. FRASER: Right here.

19 SEN. ZAFFIRINI: Good.

20 SEN. FRASER: I was -- oh, go ahead,  
 21 please.

22 SEN. ZAFFIRINI: But do you have a copy of  
 23 your criminal justice impact statement?

24 SEN. FRASER: I do now.

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25 SEN. ZAFFIRINI: My first questions will

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1 focus on that.

2 In the first paragraph, you'll see that it  
3 states very clearly that the punishment for attempting  
4 to vote illegally would be enhanced from a Class A  
5 misdemeanor to a state jail felony, and the punishment  
6 for illegal voting would be enhanced from a third degree  
7 felony to a second degree felony. What would be the  
8 impact on our state budget of increasing those  
9 penalties?

10 SEN. FRASER: I'm sorry. I'm not advised  
11 as the impact on the budget, as you know. You're on  
12 finance, I'm not. You would know that.

13 The second question I'm assuming you're  
14 asking is, why we would consider doing this? Actually,  
15 these suggestions were brought forward by Democratic  
16 members of your delegation that said, "Why don't we go  
17 ahead and increase it?" So we increased the penalties  
18 for fraud. So the recommendations on doing this, it  
19 actually was across the board. We had people on both  
20 sides, but there was recommendations that we increase  
21 these penalties.

22 The impact of the cost to the budget, I'm  
23 sorry, I'm not advised. My job is to make sure the  
24 public is well served, and if someone commits fraud  
25 by -- by voter impersonation, that the penalties are

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1 strict.

2 SEN. ZAFFIRINI: But I am concerned about  
3 this, Senator, and I don't know what Democrat or what  
4 Republican asked you to make those changes. I was not  
5 privy to that conversation.

6 But if you look at the last paragraph, it  
7 says: Increasing the penalty for any criminal offense  
8 is expected to result in increased demands upon the  
9 correctional resources of counties or of the state due  
10 to longer terms of probation, of longer terms of  
11 confinement and county jails or prison. And then it  
12 also states: When an offense is changed from a  
13 misdemeanor to a felony, there is a transfer of the  
14 burden of confinement of convicted offenders from the  
15 counties to the state.

16 So earlier there was senators who talked  
17 about unfunded mandates for the counties, but in this  
18 case, we are -- we seem to be relieving the county of  
19 some of its burden but then increasing the burden to the  
20 state. And my question remains: At what cost?

21 Now, this bill, were it before the Finance  
22 Committee, we would have a fiscal note; but because it's  
23 not, it's because it's before the Committee of the  
24 Whole. We are restricted to the fiscal note that we  
25 have here, and it's strange that we don't have a

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1 connection between the cost of the criminal justice  
2 impact and the fiscal note. It seems that there's two  
3 independent documents, as they should be, but it seems  
4 to me, that the fiscal note should reflect the cost that  
5 is defined or, at least, specified in the criminal  
6 justice impact statement.

7 SEN. FRASER: Well, and I think the easy  
8 answer to that -- I'll -- if someone else, if -- we may  
9 defer to Senator Williams, if he wanted to comment, or  
10 another member.

11 But I think the easy answer to this is  
12 that if we implement the photo ID, it's pretty  
13 straightforward, that someone -- if they're going in, if  
14 they have a driver's license and they're -- you're  
15 attempting to vote, that there's a good assumption that  
16 the driver's license is valid, that they are who they  
17 say they are. So I'm -- we're hoping that the deterrent  
18 will be that people will not try to vote fraudulently,  
19 that the ones that are voting will be valid voters, and  
20 we don't have a lot of people going to prison because  
21 hopefully, they won't try to vote illegally. I --  
22 that's the hope.

23 SEN. ZAFFIRINI: Well, actually, Senator,  
24 that is why some of us are opposed to this bill because  
25 we don't understand the problem that has been defined.  
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1 For example, in that same paragraph, it says: In fiscal  
2 year 2010, less than five people were under parole or  
3 supervision for illegal voting. In fiscal year 2010,  
4 five offenders were placed on community supervision, and  
5 less than five offenders were released from community  
6 supervision for illegal voting or attempting to vote  
7 illegally; and then more important, in fiscal year 2010,  
8 less than five people were arrested for illegal voting  
9 or attempting to vote illegally.

10 So it seems to me that this criminal  
11 justice impact statement makes the point that there  
12 isn't a problem, especially if you look at the last  
13 sentence: It is assumed the number of offenders  
14 convicted under this statute would not result in a  
15 significant impact on the programs and workload of state  
16 corrections agencies or on the demand for resources and  
17 services of those agencies. So if they don't see an  
18 increased demand in this area because they don't see  
19 people being arrested, then where's the problem?

20 SEN. FRASER: Well, and I guess I just  
21 disagree with your analysis of this, is that voter  
22 fraud, under current law, that our laws are so weak,  
23 it's virtually impossible to -- to catch one and  
24 convict; and that's the problem we're trying to address.

25 SEN. ZAFFIRINI: Well, okay, Senator.  
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1 Thank you.

2 My next questions will focus on the fiscal

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3 note. Do you have a copy of the fiscal note?

4 SEN. FRASER: I do. Somewhere.

5 SEN. ZAFFIRINI: I'll wait till you get  
6 it.

7 SEN. FRASER: Yes.

8 SEN. ZAFFIRINI: You have it?

9 SEN. FRASER: I have.

10 SEN. ZAFFIRINI: So the fiscal note shows  
11 \$2 million but all in fiscal year 2012. Why aren't  
12 there recurring costs? Is that because the photo ID  
13 card is issued in perpetuity, or it doesn't have to be  
14 renewed?

15 SEN. FRASER: Senator, again, you're --  
16 you're a member of finance who would know. You know,  
17 this comes from LBB which did consultation with the  
18 affected parties, which are Secretary of State, DPS.  
19 We're going to have expert witnesses who will come up in  
20 a minute --

21 SEN. ZAFFIRINI: Okay.

22 SEN. FRASER: -- and they will explain how  
23 they delivered that data. I think probably what you're  
24 going to hear from them is that a lot of the initial  
25 cost would be in the education of the -- the -- the  
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1 Secretary of State educating both voters and poll  
2 workers and any initial -- the free cards that we're  
3 giving out, there will be more, probably, the first year  
4 than other years. I'm -- I'm assuming that's it, but I  
5 think I'd ask that question of the Secretary of State  
6 and DPS.

7 SEN. ZAFFIRINI: Well, but, again, the  
8 fiscal note is submitted to the chair of the committee  
9 that hears the bill. You'll notice at the top of  
10 Page 1, it is directed to Robert Duncan, chair of the  
11 Senate Committee of the Whole, not to Senator Ogden,  
12 chair of Finance. And so it is not for the Finance  
13 Committee to consider the costs and the implications of  
14 these policy changes, but it's up to the Committee of  
15 the Whole; and we are the ones who have this fiscal  
16 note.

17 And I challenged the fiscal note last  
18 time. Remember it was zero, and I couldn't believe it?  
19 And I asked you questions about that, and I just  
20 couldn't believe it. And so now, all of a sudden, it's  
21 a fairly similar bill. Many would say more restrictive,  
22 but now it has a fiscal note of \$2 million.

23 And did you say earlier, Senator, that  
24 this cost would be covered by HAVA funds?

25 SEN. FRASER: And -- and the difference  
0217

1 between this year and two years ago, I think the  
2 assumption last year -- two years ago is that they would  
3 just be able to use the HAVA funds. And, again, I think  
4 you probably should ask the Secretary of State.

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5 I believe since then, they have made a  
6 request of HAVA requesting that, and HAVA's response, I  
7 believe, is that they will wait until the bill is  
8 passed. And when the bill is passed, then they will  
9 make a determination on whether you could use the -- the  
10 money. But we're also looking at history of other  
11 states. They have been allowed to use HAVA money.

12 But, again, I think I'd ask the Secretary  
13 of State that question.

14 SEN. ZAFFIRINI: Well, as the author of  
15 this bill, would you prefer that the state pay this  
16 \$2 million in costs, or would you prefer that we use  
17 federal funds?

18 SEN. FRASER: I would prefer the money  
19 that's sitting over here in a pot at the Secretary of  
20 State -- that has not been spent; obviously, I'd much  
21 rather use that.

22 SEN. ZAFFIRINI: Do you know, Senator,  
23 what the HAVA funds are used for?

24 SEN. FRASER: For educating -- it's the --  
25 help America vote. It's to encourage voting.

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1 SEN. ZAFFIRINI: So basically, if we use  
2 the HAVA funds for this purpose, we are repurposing the  
3 HAVA funds that are already there and intended for  
4 things like new equipment and ongoing training programs?

5 SEN. FRASER: Senator, I don't think -- I  
6 think the decision will be made by the federal agency  
7 that sent us the money, the HAVA people; and if they've  
8 already authorized other states to use this for voter --  
9 it's for voter education, and this would fall in the  
10 area of voter education, I would assume.

11 SEN. ZAFFIRINI: Well, it's my  
12 understanding, Senator, that it is for the state to  
13 submit a plan. The federal government doesn't tell us  
14 what to do in that area, not that it doesn't tell us in  
15 other areas.

16 SEN. FRASER: And, Senator, I hate -- it's  
17 the same answer I've given multiple people before, is  
18 that the Secretary of State will be coming up. I think  
19 that's the person to address this.

20 SEN. ZAFFIRINI: Do you have any  
21 suggestions regarding the training that is referred to  
22 on Page 2 of the fiscal note, local government impact?

23 SEN. FRASER: I do not. That, again,  
24 will -- it is the job of the Secretary of State to  
25 administer that, recommend the training, and I believe

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1 they have the authority under current law.

2 SEN. ZAFFIRINI: And you have no  
3 information, then, about any recurring costs that we  
4 should worry about?

5 SEN. FRASER: I have none.

6 SEN. ZAFFIRINI: And to whom would you

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7 refer us on that issue?

8 SEN. FRASER: On recurring costs?

9 SEN. ZAFFIRINI: Uh-huh.

10 SEN. FRASER: Could you give me an  
11 example? I don't -- I don't think I --

12 SEN. ZAFFIRINI: Well, the fiscal note  
13 shows all the expense in fiscal year 2012, and then it  
14 doesn't show any other expenses --

15 SEN. FRASER: I --

16 SEN. ZAFFIRINI: -- beyond that.

17 SEN. FRASER: I would ask the Secretary of  
18 State or DPS.

19 SEN. ZAFFIRINI: It just seems to me,  
20 Senator, that there will be recurring costs because one  
21 example would be the State's responsibility to provide  
22 free photo ID cards on a recurring basis to the  
23 significant portion of our population that moves  
24 regularly. They move from one part of the state to  
25 another, and they might need a different card in that  
0220

1 area. And that would be a recurring cost, would it not?

2 SEN. FRASER: Senator, since 2006, there  
3 have only been 37,000 people that registered to vote  
4 that did not have a current driver's license. That --  
5 that's in the last five years. So the assumption is,  
6 the number that is coming into the system that would not  
7 have a card, the number is very low. The cost of that  
8 card is not a huge number. So actually, the amount that  
9 it would cost to take care of them is a -- not a large  
10 number.

11 SEN. ZAFFIRINI: What I'm worried about,  
12 Senator, as a member of the Finance Committee, is  
13 unintended consequences and unexpected costs. Not  
14 unexpected because we don't foresee them and can't  
15 identify them, but because of the criminal justice  
16 impact statement and because of the fiscal note that we  
17 have that simply don't address these issues.

18 For example, Line 12, Page 12 of the bill,  
19 you refer to the cost of the get-out-the-vote efforts;  
20 and basically, the fiscal note states: The analysis is  
21 incomplete because, quote, it is not known how many  
22 voter registration drives or other activities designed  
23 to expand voter registration would occur. So we don't  
24 even have an estimated cost of one voter registration  
25 drive. And if it is our intent to ensure that we have  
0221

1 more, we're not considering the cost, it seems to me  
2 that we are being irresponsible in terms of identifying  
3 the exact cost or the best estimated cost of this bill.

4 SEN. FRASER: And we are -- have the  
5 benefit of not being the first one to implement this.  
6 We don't have to reinvent the wheel. We can look at the  
7 history of states that have implemented, like Indiana,  
8 Georgia, and others, look at common things that have

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9 happened there. We're going to have a person from  
10 Indiana here. I think it -- that would probably be a  
11 question you might ask, is the reoccurring cost, because  
12 they've had this in effect. I believe they passed it in  
13 2006.

14 SEN. ZAFFIRINI: But, of course, when we  
15 talk about other states, including Indiana, we -- Texas  
16 is much bigger and much more diverse; and so our  
17 problems will be very different, our challenges will be  
18 very different, and I believe our costs will be  
19 significantly higher. But, again, I'm concerned as a  
20 member of the Finance Committee.

21 But speaking of costs related to other  
22 states, are you aware, Senator, that in many, if not  
23 all, of the states that have implemented photo ID bills,  
24 including those with less restrictive laws than the one  
25 that you propose, they have been challenged in court.

0222

1 What costs are we anticipating regarding being  
2 challenged in court because of this bill?

3 SEN. FRASER: I'm -- I'm not advised, that  
4 you're making an assumption we'll be challenged, and  
5 I'm -- I do not -- I'm not advised.

6 SEN. ZAFFIRINI: I think it's a pretty  
7 safe assumption. Indiana was challenged, and as I said,  
8 many, if not all, of the states that have implemented  
9 these bills have been challenged.

10 So I think, again, as members of the  
11 Finance Committee, as members of the Senate, even those  
12 who are not members of the Finance Committee, should  
13 look at that as a possibility and certainly should  
14 consider the costs. Is this where we want to spend our  
15 money? Even the \$2 million. What if HAVA funds are not  
16 used for this purpose? Is this where we want to spend  
17 the \$2 million and significantly more in defending the  
18 bill instead of addressing the other issues that we are  
19 facing right now because of economic crisis in Texas?

20 SEN. FRASER: Was that a question?

21 SEN. ZAFFIRINI: Yes. Is it?

22 SEN. FRASER: Is what? Should --

23 SEN. ZAFFIRINI: Is this where we want to  
24 spend our money?

25 SEN. FRASER: It's -- the decision on

0223

1 that, you know, I'm not on Finance, you are. You're --  
2 you're -- you're asked to make those hard decisions. So  
3 that, I would -- you know, that'll go back to the  
4 Finance Committee.

5 SEN. ZAFFIRINI: Okay.

6 SEN. FRASER: But you're also making an  
7 assumption that there's going to be an expense, which I  
8 don't think there will be one because I think we'll be  
9 able to spend the HAVA funds.

10 SEN. ZAFFIRINI: All right. Well, we

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11 disagree on those. I think those assumptions are fairly  
12 safe.

13 Senator Fraser, Senator Van de Putte  
14 distributed this map earlier. Have you seen this map?

15 SEN. FRASER: I have not.

16 SEN. ZAFFIRINI: Basically, it shows  
17 her -- if my -- Mr. Chairman?

18 CHAIRMAN DUNCAN: Senator Zaffirini?

19 SEN. ZAFFIRINI: If I may direct a  
20 question to Senator Van de Putte?

21 CHAIRMAN DUNCAN: Pardon?

22 SEN. ZAFFIRINI: If I may direct a  
23 question to Senator Van de Putte?

24 CHAIRMAN DUNCAN: Senator Van de Putte  
25 doesn't have the floor.

0224

1 SEN. ZAFFIRINI: That's why I'm asking.

2 SEN. FRASER: And -- and I won't yield.

3 SEN. ZAFFIRINI: You won't yield?

4 SEN. FRASER: No, I will not yield.

5 SEN. ZAFFIRINI: All right.

6 SEN. FRASER: You -- I'll be glad to  
7 answer the question.

8 SEN. ZAFFIRINI: All right. I simply  
9 wanted to ask if she planned to distribute this, and if  
10 so, I wasn't going to address it.

11 CHAIRMAN DUNCAN: If you want to introduce  
12 the exhibit, you're welcome to do so. We've marked it,  
13 I think.

14 SEN. ZAFFIRINI: All right. Then I would  
15 like --

16 SEN. FRASER: Senator, I'm sorry. I have  
17 a map in front of me. I had not seen it, so --

18 SEN. ZAFFIRINI: All right. Well, Senator  
19 Van de Putte has indicated that I can request permission  
20 to introduce this as an exhibit.

21 CHAIRMAN DUNCAN: Okay. I think it's been  
22 marked, and would you -- would you bring it down,  
23 please?

24 SEN. ZAFFIRINI: I believe Senator Van de  
25 Putte has a clean copy. And this is a map that Senator

0225

1 Van de Putte had developed, and it's titled, "Counties  
2 With Department of Public Safety Driver's License Office  
3 Closures."

4 My question, Senator Fraser, would focus  
5 on my district. For example, in my district, which  
6 comprises 16 counties and part of Bexar, Northeast  
7 Bexar, there is one county that has wheelchair  
8 accessibility barriers; there are two counties that have  
9 absolutely no driver's license offices; there are four  
10 that have offices that are temporarily closed; and there  
11 is one that has an office that is open three days or  
12 fewer each week. And so you can see the accessibility

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13 issues that we're dealing with, and you can -- when you  
 14 get the map -- oh, you do have a copy of the map. You  
 15 can see the difference throughout the state. There are  
 16 some states that you can see have a lot of pink, a lot  
 17 of blue, a lot of green, and then -- counties, rather --  
 18 and there are others that are just white, that have  
 19 absolutely no barriers.

20 So, Senator Fraser, looking at this map,  
 21 are you concerned that this bill would impact certain  
 22 counties that have a problem related to the  
 23 accessibility to driver's license offices?

24 CHAIRMAN DUNCAN: Senator Zaffirini, if I  
 25 could -- before you get an answer to that question,  
 0226

1 let's get it in the record so everybody knows what we're  
 2 talking about.

3 SEN. ZAFFIRINI: All right.

4 CHAIRMAN DUNCAN: It's Exhibit --

5 SEN. ZAFFIRINI: Mr. Chairman?

6 CHAIRMAN DUNCAN: It's Exhibit 6, I  
 7 believe. Is that correct? It's not the two that you've  
 8 previously submitted.

9 SEN. ZAFFIRINI: No.

10 CHAIRMAN DUNCAN: Is that correct?

11 SEN. ZAFFIRINI: It's Exhibit 6, then,  
 12 according to --

13 CHAIRMAN DUNCAN: Okay.

14 SEN. NELSON: Mr. Chairman?

15 CHAIRMAN DUNCAN: And for what purpose?

16 SEN. NELSON: It's me, and to ask Senator  
 17 Zaffirini a question or to point out that some of us do  
 18 not have a copy of this map.

19 CHAIRMAN DUNCAN: Okay. Well, that would  
 20 be a parliamentary inquiry and --

21 SEN. NELSON: Then I would like to make  
 22 that.

23 CHAIRMAN DUNCAN: That's what I'm trying  
 24 to clear up, is I'm trying to get the exhibit in so that  
 25 we can distribute it so that everyone can understand  
 0227

1 what the questions are.

2 Would you identify it, please? What's the  
 3 title of it?

4 SEN. ZAFFIRINI: Yes. It is titled,  
 5 "Counties with Department of Public Safety Driver's  
 6 License Office Closures." It is a map of Texas showing  
 7 this -- these issues, and it was developed by Senator  
 8 Van de Putte. I had assumed that she had introduced it  
 9 into the record or had planned to, but I'm happy to do  
 10 it.

11 CHAIRMAN DUNCAN: Okay. Do we have  
 12 copies?

13 SEN. NELSON: We don't. Only the  
 14 Democrats do.

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15 CHAIRMAN DUNCAN: Okay. Well, here's what  
 16 I would suggest so that other members have an  
 17 opportunity to follow your questions and the answers,  
 18 that we at least get copies of that exhibit and  
 19 distribute it, if we could do that. And then, so if we  
 20 could defer on that until we get that done, Senator --  
 21 SEN. ZAFFIRINI: Certainly.  
 22 CHAIRMAN DUNCAN: -- that would be  
 23 helpful.  
 24 SEN. ZAFFIRINI: Absolutely. No problem,  
 25 Mr. Chairman.

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1 Moving right along. I do have exhibit --  
 2 I guess it's 4 --  
 3 CHAIRMAN DUNCAN: We do have --  
 4 SEN. ZAFFIRINI: -- and Exhibit No. 5 that  
 5 I'd like to enter into the record --  
 6 CHAIRMAN DUNCAN: Okay.  
 7 SEN. ZAFFIRINI: -- at this time. And  
 8 I'll wait until they're distributed, if you -- if I may  
 9 be permitted.  
 10 CHAIRMAN DUNCAN: Would you identify  
 11 Exhibit 4, please?  
 12 SEN. ZAFFIRINI: Certainly. Exhibit 4 is  
 13 a copy of a driver's license with personal information  
 14 obliterated.  
 15 CHAIRMAN DUNCAN: Thank you. And  
 16 Exhibit 5?  
 17 SEN. ZAFFIRINI: Exhibit 5 is a letter  
 18 directed to me, which I received today, from Spencer  
 19 Overton, professor of law at the George Washington  
 20 University Law School and a member of the Carter-Baker  
 21 Commission on federal election reform.  
 22 CHAIRMAN DUNCAN: All right. Those  
 23 exhibits will be received in the record and distributed  
 24 to the members.  
 25 (Exhibit Nos. 4 and 5 marked and admitted)

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1 CHAIRMAN DUNCAN: Senator, you're -- you  
 2 can --  
 3 SEN. ZAFFIRINI: Thank you.  
 4 CHAIRMAN DUNCAN: -- continue on those  
 5 exhibits.  
 6 SEN. ZAFFIRINI: Senator Fraser, thank you  
 7 for your courtesy and for your patience and your  
 8 stamina. I'm impressed, as always.  
 9 On Page 4 of your bill, Senator Fraser,  
 10 Line 8, it states that "and the voter's identity can be  
 11 verified from the documentation presented under  
 12 Subsection (b), the voter shall be accepted for voting."  
 13 Can you describe what training the poll workers would  
 14 receive to ensure that they are trained in  
 15 identification verification?  
 16 SEN. FRASER: Senator, you're moving

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17 faster than I can. I'm on Page 4. Where are you  
18 referring?

19 SEN. ZAFFIRINI: Line 8 of the bill.

20 Well, basically, that's all it says, that if the  
21 voter's -- that "If the voter's identity can be verified  
22 from the documentation presented, the voter shall be  
23 accepted for voting." That's the only part that I'm  
24 quoting, and then I'm asking what kind of training the  
25 poll workers would undergo in identification

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1 verification.

2 SEN. FRASER: Great question to the

3 Secretary of State.

4 SEN. ZAFFIRINI: To the Secretary of

5 State.

6 Do you worry at all, Senator, and I

7 know -- I believe it was Senator Davis who asked this  
8 question earlier: Do you worry at all about people who  
9 don't look like their driver's licenses at all?

10 SEN. FRASER: I'm sorry. I -- there's so  
11 many things to worry about in life, that's -- you know,  
12 the -- the question you're asking, I think, is covered  
13 by the Secretary of State; and I believe they would make  
14 a determination.

15 SEN. ZAFFIRINI: Well, Senator Fraser, I  
16 have distributed Exhibit 4. Would you take a good look  
17 at that, please?

18 And, Members, I ask you to please look at  
19 my Exhibit 4 and look at the photograph of this driver's  
20 license. Has anyone of you ever seen this person  
21 before? He looks familiar?

22 SEN. FRASER: Yes.

23 SEN. ZAFFIRINI: Can you identify this  
24 person? I'd like to ask this person to stand.

25 (Unidentified person stands)

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1 SEN. ZAFFIRINI: Take a good look. Look  
2 at that picture. Look at him. That's right. That --  
3 and this picture was taken in 2006. Now, if I didn't  
4 know Ray, who is my chief of staff, and I were to look  
5 at this picture, I would say, "You're not verified. You  
6 can't vote. You're an imposter." Look at the  
7 difference. Total difference, and yet this photograph  
8 was taken in 2006, and so it's current, it's valid. And  
9 you can see if we who know him and have seen him, see  
10 him every day, don't recognize his picture, imagine what  
11 a poll worker would do with a driver's license like  
12 this.

13 UNIDENTIFIED SPEAKER: (Mic off)

14 SEN. ZAFFIRINI: He's not a Laredoan, so  
15 don't worry about it.

16 (Laughter)

17 SEN. ZAFFIRINI: Senator Fraser, do you  
18 understand why we worry?

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19 (Senator Shapiro speaking without mic)

20 SEN. ZAFFIRINI: Well, it's a very good  
21 point to make, Senator Shapiro, that we should look at  
22 our composite photos; and most of us don't look like  
23 them, and yet they have the dates like 2008.

24 SEN. WEST: We keep using those pictures.

25 SEN. ZAFFIRINI: 2009. We sure keep using  
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1 those pictures, so what would happen?

2 My next question, Senator Fraser, focuses  
3 on Exhibit 5.

4 And, Members, you have a copy of  
5 Exhibit 5.

6 And it is a letter directed to me from  
7 Spencer Overton, professor of law from George Washington  
8 University. And basically, I received this letter from  
9 Professor Overton today, and it directly addresses  
10 Senate Bill 14's inconsistency with the Carter-Baker  
11 Commission.

12 Specifically, the letter states that  
13 Professor Overton wrote this letter to, quote, Refute  
14 claims that Senate Bill 14 is consistent with the  
15 recommendations of the Carter-Baker Commission. And  
16 according to Professor Overton, quote, The Commissioners  
17 recommended requiring photo ID of voters only if state's  
18 assumed the responsibility to seek out citizens and  
19 provide them with an ID free of charge, if states assume  
20 the responsibility to seek out unregistered citizens and  
21 register them and automatically update the registration  
22 of citizens when they move, and if states allow citizens  
23 without a photo ID to vote by signing an affidavit under  
24 penalty of perjury for the first two federal elections  
25 following adoption of the photo ID.

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1 Now, Senator Fraser, this bill does not  
2 meet any of these criteria. Is that correct? Under  
3 your bill, the state would not assume any of these  
4 responsibilities?

5 SEN. FRASER: Not advised.

6 SEN. ZAFFIRINI: Well, I assure you,  
7 Senator, that it does not. But Professor --

8 SEN. FRASER: I disagree.

9 SEN. ZAFFIRINI: Could you show me it  
10 does, where in your bill it would allow this?

11 SEN. FRASER: I'm not advised. This --  
12 there's been no representation made that we are modeling  
13 this bill after the -- the Carter-Baker recommendations.  
14 This bill is moving forward as a bill that when someone  
15 votes, they will present an ID to show they are who they  
16 say they are. The bill that I'm passing we think will  
17 be approved by the Supreme Court and will be approved by  
18 Department of Justice.

19 SEN. ZAFFIRINI: Well, then, let me ask  
20 you a question. Where in your bill does it specify that

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21 the state would assume the responsibility to seek out  
22 citizens and provide them with an ID free of charge?

23 SEN. FRASER: I would think it would be  
24 your responsibility to show in the bill, you know,  
25 your -- the bill speaks for itself.

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1 SEN. ZAFFIRINI: So you can't tell me if  
2 your bill does that?

3 SEN. FRASER: The bill speaks for itself.  
4 The language of the bill is very clear as to what the --  
5 the issues we're addressing.

6 SEN. ZAFFIRINI: Okay. Do you know,  
7 Senator Fraser, if this -- under your bill, the state  
8 would assume the responsibility to seek out unregistered  
9 citizens and to register them and automatically update  
10 the registration of citizens when they move?

11 SEN. FRASER: I don't believe that is  
12 covered in my bill.

13 SEN. ZAFFIRINI: It is not.

14 And do you know, Senator Fraser, if your  
15 bill -- under your bill, the state would allow citizens  
16 without a photo ID to vote by signing an affidavit under  
17 penalty of perjury for the first two federal elections  
18 following adoption of the photo ID bill?

19 SEN. FRASER: Every person that votes will  
20 be required to have a photo ID.

21 SEN. ZAFFIRINI: Well, basically, it seems  
22 to me, my analysis is that Senate Bill 14, as  
23 introduced, does not meet these specifications of the  
24 Carter-Baker Commission.

25 And what's more, in this letter that you

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1 have, Members, Professor Overton states that, quote,  
2 Even President Carter and Secretary Baker rejected the  
3 strict photo ID requirement initially adopted in Georgia  
4 after concluding it was discriminatory because it was  
5 costly or difficult for poor Georgians to obtain the  
6 identification for voting, unquote. But according to  
7 Professor Overton, quote, It devotes insufficient  
8 resources to address the burdens it would impose on  
9 Texas voters who lack photo ID.

10 SEN. FRASER: That is absolutely  
11 incorrect. The original observation -- the bill that  
12 was filed in Georgia was changed, and the bill that  
13 originally -- that is in law now, that was not their  
14 observation. And that was written in 2005. The bill  
15 was replaced 2008. That was not their observation.

16 SEN. ZAFFIRINI: Well --

17 SEN. FRASER: That it was -- I saw that  
18 comment made in a 2005 comment, but you're also making  
19 sure you don't take it out of context. And the -- the  
20 law that had been passed by Georgia was revisited. They  
21 passed a different law, and then that law was -- that  
22 bill was precleared by Department of Justice.

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23 SEN. ZAFFIRINI: But it still required --

24 SEN. FRASER: So the bill he's --

25 SEN. ZAFFIRINI: -- photo ID.

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1 SEN. FRASER: -- addressing is not law --

2 current law in Georgia.

3 SEN. ZAFFIRINI: But the Georgia law still

4 requires a photo ID.

5 SEN. FRASER: Yes, it does.

6 SEN. ZAFFIRINI: It does.

7 And finally, Professor Overton closes with

8 his statement that the current proposal for a photo ID

9 law in Texas is inconsistent with the recommendations of

10 the Carter-Baker Commission.

11 SEN. FRASER: I disagree with that.

12 SEN. ZAFFIRINI: Why, Senator?

13 SEN. FRASER: I just disagree with that.

14 SEN. ZAFFIRINI: Are there any specific

15 points that you disagree with that he made or that I

16 quoted in his letter?

17 SEN. FRASER: I'm -- you know, the letter

18 that you're laying out is -- the first time I've seen it

19 is just then. We're -- our bill is not -- we're not

20 trying to model it after that, but the Carter-Baker

21 Commission very clearly recommended a photo ID.

22 SEN. ZAFFIRINI: Well, Senator, the reason

23 that we asked for this letter, we followed up on your

24 early statement when you laid out the bill. And you

25 referred to the Carter-Baker Commission, and it was

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1 based on your statement that we followed up and did this

2 immediate research and got this letter written to us.

3 SEN. FRASER: Will you show me where I

4 referred to it in my opening statement?

5 SEN. ZAFFIRINI: Well, I don't have the

6 transcript yet; but as I recall, you referred to it in

7 your opening statement.

8 SEN. FRASER: Do you want me to read what

9 I said again from the opening statement?

10 SEN. ZAFFIRINI: Yes, would you?

11 SEN. FRASER: I read two --

12 SEN. ZAFFIRINI: Your copy to the -- your

13 reference to the Carter-Baker Commission report.

14 SEN. FRASER: I said, "The Carter-Baker

15 Commission reaffirms the dangers. Elections are at the

16 hard democracy. Americans are losing confidence in the

17 fairness of elections, and while we do not face a crisis

18 today, we need to address the problems of our electoral

19 system. At the end of the day, there's considerable

20 national evidence of in-person fraud; and regardless of

21 whether one believes that voter impersonation is

22 widespread or relatively rare, there can be no serious

23 dispute that -- that real effect can be substantial

24 because in a close election, even a small amount of

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25 fraud could take -- be the margin of difference."

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1 SEN. ZAFFIRINI: Well, sir.

2 SEN. FRASER: That was a quote that was  
3 made. It was -- it was used not only there, but it is  
4 also used later in the Supreme Court decision.

5 SEN. ZAFFIRINI: Right. And, Senator  
6 Fraser, it is because I was surprised at that statement  
7 that we followed up, and it seems that that is in the  
8 report. But there is other information in addition to  
9 that, so I could turn around and say, "Well, are you  
10 taking it out of context?" I won't raise that question  
11 as a courtesy, but I could raise it.

12 But on the other hand, what I want to make  
13 very clear is that the reason we followed up was that  
14 you made this opening statement.

15 SEN. FRASER: Your letter is dated January  
16 the 24th. I made the statement this morning. Was --  
17 did I make the statement, and then he -- he wrote the  
18 letter and sent it to you today?

19 SEN. ZAFFIRINI: Well, I requested it  
20 today, so that's perhaps a typo because we received it  
21 today. Let me check. We received it -- we received it  
22 this morning.

23 SEN. FRASER: Before I made the statement?

24 SEN. ZAFFIRINI: It should be  
25 January 25th.

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1 SEN. FRASER: But you -- you said that you  
2 responded -- that you requested it after I made the  
3 statement in my --

4 SEN. ZAFFIRINI: I requested --

5 SEN. FRASER: -- opening comments.

6 SEN. ZAFFIRINI: I requested this  
7 information based on your opening statement, and I  
8 received this letter today. That's correct. Okay?

9 Thank you very much, Senator. I  
10 appreciate, as I said, your courtesy and your patience.

11 SEN. FRASER: Thank you.

12 CHAIRMAN DUNCAN: Members, we've been  
13 going for a while, and I think it would be -- we're kind  
14 of at a -- maybe getting close to a breaking point. Why  
15 don't we go ahead and take a ten-minute break and then  
16 reconvene, give the court reporter and staff a minute or  
17 two to rest. So a time certain, we'll stand at ease  
18 until 2:30.

19 (Recess: 2:21 p.m. to 2:34 p.m.)

20 CHAIRMAN DUNCAN: Senate Committee of the  
21 Whole will come back to order. Senator Hinojosa?

22 SEN. HINOJOSA: Thank you, Mr. Chairman.  
23 Senator Fraser?

24 SEN. FRASER: These are actually pretty  
25 good.

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1 SEN. HINOJOSA: Can you hear me?

2 SEN. FRASER: Yes, this is -- these are  
3 much better. Yes, I do. I can hear you.

4 SEN. HINOJOSA: I just have a few  
5 questions that I'd like to follow up on.

6 Do you know how many people are registered  
7 to vote here in the state of Texas?

8 SEN. FRASER: Oh, I do -- I'm sorry, I do  
9 not know.

10 SEN. HINOJOSA: Approximately, 13 million.

11 SEN. FRASER: Okay. 13, yeah. Okay.

12 SEN. HINOJOSA: Yeah. And do you know how  
13 many voted in the last election?

14 SEN. FRASER: No, I'm not advised on that  
15 either. I'm sorry.

16 SEN. HINOJOSA: Close to 5 million voters  
17 voted this last election. And do you know how many  
18 people were arrested or prosecuted or indicted for  
19 trying to use somebody else's voter registration card?

20 SEN. FRASER: I'm sorry, not -- no, I do  
21 not have that number.

22 SEN. HINOJOSA: None?

23 SEN. FRASER: I don't -- I don't have the  
24 number, I'm sorry. I'm not advised.

25 SEN. HINOJOSA: Well, do you have any  
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1 evidence?

2 SEN. FRASER: I'm sorry?

3 SEN. HINOJOSA: Do you have any evidence?

4 SEN. FRASER: Evidence?

5 SEN. HINOJOSA: Yeah, evidence to support  
6 your bill about voter fraud when they go to vote?

7 SEN. FRASER: Senator, you know the thing  
8 that we're trying to address here is that, as you know,  
9 it's virtually impossible to detect voter fraud because  
10 our current law makes it impossible not only to -- to  
11 verify that they're voting illegally, but even if you  
12 catch them, we don't have the ability to stop them from  
13 voting. So the -- the ability to stop someone today  
14 voting illegally is almost impossible in Texas. That's  
15 the thing that I'm trying to address with my bill, is  
16 that we believe if we make them show a voter ID, then we  
17 will know that they are who they represent themselves to  
18 be.

19 SEN. HINOJOSA: Actually, Senator Fraser,  
20 back home, most of the election judges know who the  
21 voters are in their precincts.

22 SEN. FRASER: Well, that's interesting.

23 Back home, in the area you're from, most of the -- or a  
24 lot of the stories that I've seen reported to the  
25 media -- and actually, you've got two voter registrars  
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1 through your area that have endorsed this concept  
2 because they are -- they are having a problem with voter

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3 fraud, and I -- that actually -- I'm -- I'm responding  
4 to things I've read they've said in the media. But I  
5 believe there are numerous registrars that believe this  
6 is a -- a large problem.

7 SEN. HINOJOSA: Well, I hear what you're  
8 saying, but I don't see any evidence. There's a lot of  
9 anecdote, a lot of rumors and guessing and speculation,  
10 which I don't think it's a way to make good public  
11 policy.

12 Are you familiar with the Carter-Baker  
13 Commission on federal election reform?

14 SEN. FRASER: Senator, what are you -- I'm  
15 sorry. What --

16 SEN. HINOJOSA: Are you familiar with the  
17 Carter-Baker Commission on federal election reform?

18 SEN. FRASER: Yes, I am.

19 SEN. HINOJOSA: Okay. Are you aware that  
20 by putting a requirement of having a photo ID to be able  
21 to vote, that there are approximately 3 million  
22 registered voters in the state of Texas that do not have  
23 voter ID?

24 SEN. FRASER: I don't know where you get  
25 that number.

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1 SEN. HINOJOSA: Well, if you look at  
2 3 million people who are going -- who will be kept from  
3 voting as compared to you cannot show anybody getting  
4 prosecuted -- getting prosecuted and convicted voter  
5 fraud, that's one big difference, one big price to pay  
6 for a bill that you don't have any evidence to support  
7 there's voter fraud.

8 SEN. FRASER: One second, Senator. My --  
9 my iPhone is interfering with my microphone.

10 The 3 million number, where do you get  
11 that?

12 SEN. HINOJOSA: That's the estimate by the  
13 Carter-Baker Commission on federal election reform that  
14 here in Texas --

15 SEN. FRASER: Can you -- can you show me  
16 where it says in that Commission report? I don't  
17 remember.

18 SEN. HINOJOSA: Yes, sir, it's a letter  
19 dated January 24th, 2011, from Professor Spencer Overton  
20 addressed to Senator Judy Zaffirini where he states that  
21 approximately 3 million Texas voters do not have photo  
22 ID.

23 SEN. FRASER: Senator, that is --  
24 (Simultaneous speaking)

25 SEN. FRASER: -- pure speculation by that

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1 gentleman. He has nothing to base that on, and that is  
2 not in reference to the Carter-Baker report. That is a  
3 estimation by some, you know, political hack that --  
4 that y'all have asked to write a letter.

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5 SEN. HINOJOSA: Well, actually, I thought  
6 it was the opposite. I thought your side was pure  
7 speculation. Thank you.

8 CHAIRMAN DUNCAN: The chair recognizes  
9 Senator Williams.

10 SEN. WILLIAMS: Thank you, Mr. Chairman.  
11 Would Senator Fraser yield for some  
12 questions?

13 SEN. FRASER: I will yield.

14 SEN. WILLIAMS: Senator Fraser, there's  
15 several things that I wanted to clear up for the record.  
16 The first, I'd like to make a reference  
17 back to the Secretary of State has recently sent this  
18 letter -- she sent it over today -- that indicated that  
19 there would be probably \$2 million of the HAVA funds  
20 that would be available for voter education, to help  
21 fund the voter education efforts that we would have in  
22 connection with this bill. And it would be -- normally,  
23 it would be the Secretary of State's office who would  
24 develop what those problem programs are with taking into  
25 account our legislative intent about what we're trying

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1 to accomplish. Is that right?

2 SEN. FRASER: Yes.

3 SEN. WILLIAMS: The other thing that I  
4 wanted to correct, for the record, Senator Watson opined  
5 earlier that a lot of this funding for these items had  
6 been struck in the budget, and actually, I went back and  
7 pulled a copy of the budget. I had not looked at this  
8 part, and so there were some budget riders that had  
9 expired and that were no longer relevant in the current  
10 budget. Those were struck. And under Strategy B.1.4,  
11 under elections improvement, administer Federal Help  
12 America Vote Act, we actually have, it looks like, a  
13 total of about \$43 million over the next biennium that's  
14 been appropriated in the budget that Senator Ogden laid  
15 out for us earlier. So I just wanted to clear that up  
16 for the record because that's kind of been a moving  
17 target.

18 Another question that I had for you was  
19 the -- I wanted to go back, if I could, and -- and just  
20 touch on what my understanding after hearing all this  
21 questioning that's gone on, what your -- the purpose of  
22 your bill is -- really is to deter and detect fraud  
23 in-person voter fraud at the polls. Is that correct?

24 SEN. FRASER: That is correct.

25 SEN. WILLIAMS: Okay. And has the United

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1 States Supreme Court -- I believe they've stated that  
2 it's been documented throughout our nation's history by  
3 respected historians and journalists, and they  
4 demonstrate not only that the risk of voter fraud is  
5 very real, but they could affect the outcome in a close  
6 election. Does Senate Bill 14 provide the kind of

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7 safeguard against that fraud that might be crucial in an  
8 election?

9 SEN. FRASER: Yes, it does, Senator.

10 SEN. WILLIAMS: Now, we've had some close  
11 elections, even in the Texas Legislature. I know over  
12 in the House right now, there is an election contest  
13 that's been -- for Senate, State House District 48.  
14 It's being contested. The last numbers that I saw from  
15 the Secretary of State showed that Donna Howard had won  
16 her seat by 12 votes, which amounts to .02 percent of  
17 all the votes cast in that race. And, of course, back  
18 in 2008, Linda Harper Brown up in Dallas County defeated  
19 her opponent by 19 votes, or .05 percent of the total  
20 votes cast in that race.

21 Are those the kind of close elections you  
22 think that the Supreme Court might have been referencing  
23 when they said in Crawford 533 U.S. at 11-12 that  
24 it's -- the threat's not only real, but it's actually --  
25 you know, it demonstrates it's not real, but it could  
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1 affect the outcome of a close election?

2 SEN. FRASER: The answer is absolutely,  
3 yes, and it actually the -- it's even closer to home.  
4 Senator Jackson, when he was elected to the Texas House,  
5 ended up winning by seven votes.

6 SEN. WILLIAMS: Landslide Jackson --

7 SEN. FRASER: Landslide Jackson.

8 SEN. WILLIAMS: -- I think they called  
9 him.

10 SEN. FRASER: So if -- fraud, in an  
11 election like that, could have changed history.

12 SEN. WILLIAMS: Senator Fraser, Senate  
13 Bill 14 provides safeguards to protect the reliability  
14 and integrity of our voting system, especially those in  
15 close elections like we've just talked about?

16 SEN. FRASER: Yes.

17 SEN. WILLIAMS: Okay. I believe in this  
18 Crawford v. Marion, on Page 10, the Supreme Court brief,  
19 they quoted -- the United States Supreme Court quoted  
20 the Carter-Baker report that has been referenced here.  
21 And in that report, their quote was, "There's no  
22 evidence of extensive fraud in the U.S. elections or of  
23 multiple voting, but both occur, and it could affect the  
24 outcome of a close election. The electoral system  
25 cannot inspire public confidence if no safeguards exist  
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1 to deter or detect fraud or to confirm the identity of  
2 voters. Photo identification cards currently are needed  
3 to board a plane, enter federal buildings, and cash a  
4 check. Voting is equally important."

5 Is that your understanding? Is Senate  
6 Bill 14 designed to inspire that public confidence in  
7 close elections like --

8 SEN. FRASER: Yes, it is.

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9 SEN. WILLIAMS: -- we talked about?  
10 Senator Fraser, do you recall the  
11 testimony and exhibits that we provided in 2009 -- now  
12 it's been admitted earlier today as Exhibit 1 -- that  
13 detail the extensive voter fraud in Harris County and  
14 other areas of the state?

15 SEN. FRASER: Yes, I'm very familiar with  
16 it.

17 SEN. WILLIAMS: Okay. Senator, having  
18 listened to what I heard and just read a minute ago from  
19 the Carter-Baker Commission and the language that was  
20 adopted from them in the Supreme Court brief, are you  
21 aware of how difficult it is to not only to discover but  
22 to prosecute voter fraud?

23 SEN. FRASER: Yes, it is very difficult.

24 SEN. WILLIAMS: And having said that,  
25 do -- do you think that that's one of the reasons we  
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1 don't see many of these cases that are prosecuted  
2 because if someone is voting deceptively as someone  
3 else, it's going to be very difficult to discover that  
4 if they're successful?

5 SEN. FRASER: And that was recognized by  
6 the U.S. Supreme Court in their decision.

7 SEN. WILLIAMS: So are you offering Senate  
8 Bill 14 as a tool for the state of Texas to detect and  
9 deter this type of voter fraud and further inspire  
10 confidence in our voters and the voting system, to make  
11 sure that all Texans and all of our elections are  
12 conducted with the upmost integrity and equity to all  
13 Texans?

14 SEN. FRASER: Absolutely. That would be  
15 my reasoning.

16 SEN. WILLIAMS: Okay. Couple of things  
17 that I just think that it was important to get back into  
18 the record again about what the Supreme Court actually  
19 said in Crawford v. Marion; and all of this, of course,  
20 was included in the record last time.

21 I thought it was interesting that Justice  
22 Stevens comments about this. He said first, the state  
23 has an interest in deterring and detecting voter fraud.  
24 They have a valid interest in participating in a  
25 nationwide effort to improve and modernize the election  
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1 procedures that have been criticized as antiquated and  
2 inefficient, and the state, in that case, also argues  
3 that it has a particular interest in preventing voter  
4 fraud in response to a problem that is, in part, the  
5 product of its own maladministration; namely, that in  
6 the case -- in this case, Indiana's voter registration  
7 roles included a large number of people who were either  
8 deceased or no longer live in Indiana.

9 Now, Senator Fraser, when I look back at  
10 the record that we had introduced as Exhibit 1 today,

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11 didn't that record include many, many instances where we  
12 had people who were registered at fictitious addresses  
13 who had been voting or people who were deceased? I  
14 think my own brother came and testified that our  
15 grandfather had voted for 62 years after his death, and  
16 my grandmother had a very difficult time trying to get  
17 him taken off the voter roles and, in fact, had not been  
18 able to do so.

19 SEN. FRASER: Yes, I'm -- I'm -- remember  
20 that very well.

21 SEN. WILLIAMS: Okay. And so, you know,  
22 there's been a lot of talk about the burden on people,  
23 and Senator Davis made some very compelling and  
24 interesting remarks in her comments. But I would say  
25 that, you know, wouldn't you think that especially for

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1 the elderly, which we've had a big focus on here today,  
2 of the inconvenience on elderly voters, people who are  
3 age 65, don't they have an opportunity to use a mail-in  
4 ballot and they completely bypass any restrictions that  
5 your bill or inconveniences that it might cause them?

6 SEN. FRASER: I'm actually surprised at  
7 the percentage now of people that do mail in ballots.  
8 That percentage continues to increase, and so someone  
9 that did have a problem getting to the polls -- and, you  
10 know, I gave the example last year of my -- my mother in  
11 the retirement center, that she couldn't get to the --  
12 it was too much -- it's too hard for her to get to the  
13 polls, but she voted by mail. And there's -- there are  
14 people in that category, and we have that safeguard in  
15 Texas.

16 SEN. WILLIAMS: Well, and -- and I think  
17 we all care about everyone being able to exercise their  
18 constitutional right to vote, and along with the  
19 provisions that you have for people that are 70 and over  
20 plus the mail-in ballots and the fact that provisional  
21 ballots can be cast and allow people with expired  
22 licenses and that sort of thing the opportunity to prove  
23 up who they are, don't you think that addresses many of  
24 the concerns that have been raised here today?

25 SEN. FRASER: Absolutely. They -- and

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1 that was our intent, is that obviously, we want to make  
2 sure everyone is afforded the -- the ability to vote,  
3 and we think we have those provisions in place so that  
4 all Texans, every Texan, will be allowed to vote.

5 SEN. WILLIAMS: Well, I -- I think it's  
6 also interesting, and you've noted several times today,  
7 that so far as we could determine from our research,  
8 there isn't a single voter in Indiana or Georgia who's  
9 raised the issue that they've been disenfranchised since  
10 those laws have been enacted. Is that true, to the best  
11 of your knowledge?

12 SEN. FRASER: To the best of my knowledge.

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13 And we have asked that question repeatedly, and to the  
14 best of our knowledge, we have -- not a single person  
15 has come forward in either state.

16 SEN. WILLIAMS: And I think it's -- you  
17 know, when I look at the syllabus of the Crawford v.  
18 Marion County election board case that went to the Texas  
19 Supreme Court, they note in the syllabus that there's no  
20 question about the legitimacy or importance of the  
21 State's interest in counting only eligible votes. And I  
22 think they go on to say that -- that requiring that and  
23 the fact that the cards in the Indiana case, as we're  
24 doing, they make those cards free. The inconvenience of  
25 going -- of gathering the required documents, posing for  
0253

1 a photograph, does not qualify as a substantial burden  
2 on most voters' right to vote or represent a significant  
3 increase over the usual burdens of voting. And I think  
4 that's interesting that that was noted.

5 And those provisions that we have are  
6 essentially -- in your bill, there are very similar  
7 provisions with respect to those matters. Correct?

8 SEN. FRASER: They -- yes, and I want to  
9 clarify. The Crawford case went to the U.S. Supreme  
10 Court, and those observations were made in the -- the  
11 majority opinion.

12 SEN. WILLIAMS: Now, they go on to say  
13 that it's generally applicable, nondiscriminatory voting  
14 regulation, it's universally applicable, it's imminently  
15 reasonable because the burden of acquiring, possessing,  
16 and showing a free photo identification is not a  
17 significant increase over the usual voting burdens, and  
18 the State's interest are sufficient to sustain whatever  
19 those minimal burdens are.

20 So we know there's some inconvenience, but  
21 we've done everything we can to make that inconvenience  
22 as insignificant as possible. Is that --

23 SEN. FRASER: I will actually go with that  
24 in the -- the Crawford/Indiana case.

25 SEN. WILLIAMS: Just in closing, in my  
0254

1 final comments as -- before we go to take testimony, I  
2 just think that it's noteworthy to look back at what the  
3 opponents of this legislation have said on the floor  
4 thus far today, and what I've heard is very little  
5 debate about the actual content of your legislation.  
6 And I think that speaks to the fact that it's  
7 unequivocally a good idea that people ought to be able  
8 to be positively identified as who they say they are  
9 when they come to vote.

10 What I've heard today is a lot of talk  
11 about procedures, even though what we're doing is very  
12 normal for a Committee of the Whole, and it's the same  
13 procedure that we used the last session when we  
14 considered this. Is that correct, Senator Fraser?

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15 SEN. FRASER: It is, and I think it's very  
16 difficult for a member to argue the merits of the bill  
17 when it's so straightforward when you ask someone in  
18 their district do they think that someone should --  
19 should have -- be required to show a photo ID when they  
20 vote, that you've got near 90 percent of the population  
21 across the state of Texas. Again, every one of these  
22 members, it's hard to argue of the merits -- argue the  
23 merits of the bill.

24 SEN. WILLIAMS: Yeah, the other thing that  
25 I've heard that I think is interesting is fiscal notes.

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1 A lot of talk about fiscal notes, even though we have a  
2 letter from the Secretary of State that states that  
3 there are going to be HAVA funds that will be available  
4 to help with the voter education, and I think we're  
5 going to have testimony in a few moments.

6 And I tried to clarify that early on that  
7 the cost of issuing for the state these free ID cards is  
8 less than \$2. It's a very minimal cost, and with almost  
9 16 million people that we have who have a driver's  
10 license or -- or an ID card now, it seems unlikely that  
11 there's going to be a whole lot of people out of that  
12 13 million that actually don't already have a driver's  
13 license or a state ID card.

14 In fact, Senator Fraser, I spoke last  
15 night with the Department of Public Safety and today  
16 with the Secretary of State and just asked them if it  
17 would be possible for us to target those voters who are  
18 below age 65 and have -- don't have an ID card, a  
19 driver's license or an ID card issued by the state; and  
20 they said, yes, it would be possible for us to direct  
21 our voter education to those people specifically so that  
22 we could step it up and let them know before your bill  
23 takes effect -- not till, when, in January? Is that --  
24 am I remembering that correctly?

25 SEN. FRASER: January, 2012.

0256

1 SEN. WILLIAMS: So a year from now. So  
2 we've got a lot of time to let these people know what's  
3 coming.

4 And then the other thing I've heard a lot  
5 about is current law, and, you know, there's been a lot  
6 of discussion. In fact, a lot of what we've talked  
7 about is what's actually on the books right now, and  
8 your bill is not touching any of that top side or  
9 bottom. Really, most of what you do is very limited by  
10 changing what the requirements are when you come to the  
11 polls. Is that correct? There's not any other real  
12 substantive change to election law here.

13 SEN. FRASER: We're only addressing the --  
14 the actual in-person voting and the identification  
15 required when somebody votes in person. We're not  
16 addressing mail-in ballots or any of the other

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17 provisions. It's just that one section.

18 SEN. WILLIAMS: Well, thank you for  
19 allowing me to question you about this and I appreciate  
20 you bringing this issue before us and I especially  
21 appreciate the fortitude that you've shown during this  
22 long debate. Thank you.

23 SEN. FRASER: Thank you, Senator.

24 CHAIRMAN DUNCAN: Chair recognizes Senator  
25 Shapiro.

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1 SEN. SHAPIRO: Thank you, Mr. Chairman.

2 I would just like to ask one question  
3 because we're getting mixed signals, and I just want to  
4 make sure. It's just going to take a yes-or-no answer,  
5 and I think that will be the easiest.

6 In Section 7 of your bill, which is  
7 actually on Page 5, the requirements for identification  
8 prescribed for people who do not have to have a vote --  
9 a photo ID, where it references their age, does the bill  
10 require that people 70 or older present a voter  
11 registration card and that they be at least 70 years of  
12 age on January 1st, 2012?

13 SEN. FRASER: My understanding and this  
14 is, again, something probably the Secretary of State  
15 will address, but I believe your age is -- is on the  
16 card. So if someone is 70 on January 1, 2012, they will  
17 not be asked to show a photo ID.

18 SEN. SHAPIRO: Okay. And this is  
19 something that the Secretary of State has put into this  
20 bill?

21 SEN. FRASER: No. No, I --

22 SEN. SHAPIRO: This is something that you  
23 have --

24 SEN. FRASER: -- inserted it into the  
25 bill. It'd be your interpretation --

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1 SEN. SHAPIRO: I got you.

2 SEN. FRASER: -- to -- to make sure --

3 SEN. SHAPIRO: Identify whether it's at  
4 hand?

5 SEN. FRASER: -- that they can identify  
6 themselves --

7 SEN. SHAPIRO: Okay.

8 SEN. FRASER: -- but it's not intended  
9 that they would -- I believe they're --

10 SEN. SHAPIRO: Separate.

11 SEN. FRASER: Yes.

12 SEN. SHAPIRO: It's not intended to be  
13 separate. It's intended --

14 SEN. FRASER: No.

15 SEN. SHAPIRO: -- to be the same document.

16 SEN. FRASER: Yes, as long as they're --

17 SEN. SHAPIRO: Okay.

18 SEN. FRASER: -- you know, 70 on

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19 January 1, 2012.

20 SEN. SHAPIRO: And the date of birth is on  
21 our current voter registration card?

22 SEN. FRASER: You need to ask that of the  
23 Secretary of State.

24 SEN. SHAPIRO: Okay. And my recollection  
25 is it is. Thank you.

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1 SEN. FRASER: Okay.

2 CHAIRMAN DUNCAN: Chair recognizes Senator  
3 Huffman.

4 SEN. HUFFMAN: Thank you, Mr. Chairman.

5 Senator Fraser, will you yield for a  
6 couple of questions?

7 SEN. FRASER: I would love to yield.

8 SEN. HUFFMAN: Thank you, sir. I'd like  
9 to commend you, too, for a long day of answering a lot  
10 of tough questions.

11 SEN. FRASER: Thank you.

12 SEN. HUFFMAN: But I think it's important,  
13 as we kind of wrap this part of the procedures up today,  
14 that -- that we circle back to -- to the idea and the  
15 concept that -- that we got here today. But there is a  
16 line of Supreme Court cases that have brought us here.  
17 Would you agree with that?

18 SEN. FRASER: Yes.

19 SEN. HUFFMAN: And certainly, the Crawford  
20 v. Marion case gives us guidance on how to do what we're  
21 doing here today properly. Would you agree --

22 SEN. FRASER: I think that's the one --

23 SEN. HUFFMAN: -- with that?

24 SEN. FRASER: -- was referenced, I think,  
25 in the Indiana case, I believe.

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1 SEN. HUFFMAN: Okay.

2 SEN. FRASER: And that's yes.

3 SEN. HUFFMAN: And did you, as you sat  
4 down with your staff and so forth in, you know,  
5 pre-session, in the interim, and you started thinking  
6 about this bill and so forth, did you and your staff  
7 take into consideration Crawford v. Marion and try to  
8 follow the law and the rules the Supreme Court has laid  
9 out for us?

10 SEN. FRASER: Yes, without a doubt.  
11 That's already been approved by the Supreme Court, and  
12 obviously, we wanted to make sure we stayed within those  
13 parameters.

14 SEN. HUFFMAN: All right. Now, you know,  
15 the Supreme Court, I think -- we know that the Supreme  
16 Court has told us that there is a balancing test, and we  
17 understand that the right to vote is sacred. And so we  
18 know that the law tells us that if there is a burden  
19 placed upon a voter, that they're going to look very  
20 carefully at that; and it's going to have weight, but

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21 it's going to be balanced against legitimate state  
22 interest. And so I think what we need to explore, just  
23 briefly, is that, in fact, we -- we have legitimate  
24 state interest. The state of Texas has an interest to  
25 make sure that our elections are done with -- well, as  
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1 perfect as we can get them but with integrity, right,  
2 and with voter confidence.

3 So as you prepared the bill and as you  
4 look at the bill -- and the Supreme Court has told us  
5 that there are legitimate interests, and they define  
6 those for us. So as you prepared the bill and you look  
7 at Senate Bill 14 today, do you think that it addresses  
8 the relevant and legitimate concerns of deterring and  
9 detecting voter fraud? And I know you've been asked  
10 this question a lot.

11 SEN. FRASER: Absolutely.

12 SEN. HUFFMAN: Right. Do you think that  
13 it -- that it's important in that the bill will help to  
14 improve and modernize the election procedures of Texas?

15 SEN. FRASER: Yes.

16 SEN. HUFFMAN: Do you think that there's a  
17 larger scheme nationwide through the Help America Vote  
18 Act and the National Voter Registration -- Registration  
19 Act to do just that, to make elections come up to modern  
20 times?

21 SEN. FRASER: Absolutely.

22 SEN. HUFFMAN: Do you think that Senate  
23 Bill 14 will help to prevent voter fraud and actually  
24 help to ensure that only the votes of eligible Texas  
25 voters are counted in these crucial elections that  
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1 happen in the state of Texas?

2 SEN. FRASER: That is our intent, and we  
3 believe the bill does that.

4 SEN. HUFFMAN: And do you believe that  
5 once we have established these safeguards, that the  
6 voters will feel more confident about their vote being  
7 counted and only the votes of registered Texans who can  
8 vote to be counted?

9 SEN. FRASER: Yes, that is our belief.

10 SEN. HUFFMAN: Do you think that once  
11 that's established, that it will actually encourage the  
12 democratic process and that it will encourage more  
13 voters to go to the polls?

14 SEN. FRASER: The thing we've seen in  
15 other states that have implemented photo ID, the -- the  
16 voter turnout actually increased. And so, yes, we  
17 believe the confidence in the voters will increase, and  
18 we believe it will actually increase the voting  
19 percentages.

20 SEN. HUFFMAN: Now, we've heard comments  
21 today from many senators, Senator Whitmire, Senator  
22 Davis, Senator Uresti, about hypothetical burdens that

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23 may be placed on some hypothetical voter. But taking  
 24 that into account and looking at and trying to balance  
 25 it, do you feel like we have a bill here that -- that

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1 presents and moves forward our legitimate interest in  
 2 Texas as it regards voting?

3 SEN. FRASER: Without a doubt.

4 SEN. HUFFMAN: All right.

5 SEN. FRASER: We believe it does.

6 SEN. HUFFMAN: Thank you very much,  
 7 Senator Fraser.

8 SEN. FRASER: Thank you, Senator.

9 SEN. HUFFMAN: Thank you.

10 CHAIRMAN DUNCAN: Chair recognizes Senator  
 11 Wentworth.

12 SEN. WENTWORTH: Thank you, Mr. Chairman.

13 Will the gentleman yield?

14 SEN. FRASER: I will yield.

15 SEN. WENTWORTH: Senator, I want to  
 16 compliment you on your long hours of being on your feet  
 17 in responding to these questions. I just wanted to  
 18 touch on a couple of things.

19 One is we had -- we had some testimony  
 20 here two years ago on a very similar bill, and I just  
 21 wanted -- since it's been raised earlier today, the  
 22 issue about whether or not maybe passage of this bill  
 23 would reduce voter participation. There are only a  
 24 couple of other states, Indiana and Georgia, where these  
 25 sorts of bills have been passed. One of the witnesses

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1 in March of '09 said to us: Not only does voter ID help  
 2 prevent fraudulent voting, but where it has been  
 3 implemented, it has not reduced turnout. There is no  
 4 evidence that voter ID decreases the turnout of voters  
 5 or has a disparate impact on minority voters, the poor,  
 6 or the elderly. The overwhelming majority of Americans  
 7 have photo ID or can easily obtain one.

8 Now, this is in the record from the 2009  
 9 hearing, which we've already adopted, but I just wanted  
 10 to recall some of the testimony that we had.

11 Another quote was: Recent election  
 12 results in Georgia and Indiana also confirmed that the  
 13 suppositions that voter ID will hurt minority turnout  
 14 are incorrect.

15 In addition -- and I'm not sure whether  
 16 this was part of the record in '09, but there is a study  
 17 of Indiana's photo ID law that was conducted by a  
 18 University of Missouri professor. He found that  
 19 requiring identification doesn't have much impact on  
 20 voter turnout rates. His name is Jeffery Milyo. He's  
 21 professor of economics and public affairs at the  
 22 University of Missouri, a part of the Institute of  
 23 Public Policy of the Harry S. Truman School of Public  
 24 Affairs.

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25 And his conclusion is -- if I can find it

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1 quickly -- it's a many-page study, and his conclusion is  
2 that the findings that emerge from his analysis are that  
3 photo ID is associated with an overall county level  
4 turnout increase of almost 2 percentage points -- and  
5 this is just in Indiana. This isn't Georgia as well --  
6 an insignificant increase in relative turnout for  
7 counties with a greater percentage of minority and poor  
8 population; no consistent or significant impact on  
9 relative turnout in counties with a greater percentage  
10 of less educated or elderly voters; and finally, a  
11 significant relative increase in turnout for counties  
12 with a higher percentage of Democrat voters.

13 I was just wondering if you remembered  
14 those things that were testified to two years ago or  
15 whether you were familiar with this university  
16 professor's study.

17 SEN. FRASER: Thank you for bringing that  
18 forward. It -- yes, I -- now, as you mention it, I do  
19 remember it. The other thing that comes to mind that  
20 was through the testimony two years ago is in the '09 --  
21 I'm sorry -- the '08 president election for '09, that  
22 even though the president was from Illinois, the  
23 adjoining state, Indiana, had doubled the increase of  
24 voting next door in the state -- in Indiana where they  
25 had put in photo ID. Illinois did not have it, but the

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1 increase was double the amount of increase next door.  
2 So it certainly didn't show that they were hurt by the  
3 implementation of the --

4 SEN. WENTWORTH: Where Indiana has a photo  
5 ID law --

6 SEN. FRASER: Illinois does not.

7 SEN. WENTWORTH: Thank you very much,  
8 Senator.

9 SEN. FRASER: Thank you, Senator.

10 CHAIRMAN DUNCAN: Okay. Members, we  
11 have -- that completes all of the Members who want to  
12 ask questions of the author. You can sit down for a  
13 second, Senator, if you want to. Take a rest.

14 We have a little bit of housecleaning.  
15 There's a few witnesses that -- or a few exhibits that  
16 may want to go in that we have now made copies of. I  
17 think, Senator Van de Putte, you had -- Senator  
18 Zaffirini had Exhibit 6 which was a map of the DPS, and  
19 we've now had that copied and available to distribute.  
20 Do you want to go ahead and offer it into the record?

21 SEN. VAN de PUTTE: Yes, I will.

22 CHAIRMAN DUNCAN: Okay. It'll be  
23 received.

24 (Exhibit No. 6 marked and admitted)

25 CHAIRMAN DUNCAN: And then I believe we

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1 had -- Senator Davis had a chart that -- excuse me.

2 SEN. VAN de PUTTE: Mr. Chairman, do -- I  
3 move to add to Exhibit 6 the counties with Department of  
4 Public Safety Driver's License Office Closures prepared  
5 by legislative counsel.

6 CHAIRMAN DUNCAN: Okay. Thank you. That  
7 will be received in the record.

8 Senator Davis, you had an exhibit that you  
9 wanted to offer.

10 SEN. DAVIS: Yes, Mr. Chair. I'd like to  
11 add that as -- I guess it would be Exhibit No. 7 to the  
12 record.

13 CHAIRMAN DUNCAN: And I think we have  
14 copies to distribute to the Members? Would you describe  
15 it, please?

16 SEN. DAVIS: Yes, I'm sorry. It's the  
17 chart that I displayed and talked about earlier in my  
18 questions of Senator Fraser. It's exact -- an exact  
19 replica of the chart that was displayed on the Senate  
20 floor.

21 CHAIRMAN DUNCAN: It has a -- it's a  
22 graphic that has a -- at the top, a title that says,  
23 "DL/State ID." Okay. Exhibit 7 will be received in the  
24 record.

25 SEN. DAVIS: Thank you.

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1 (Exhibit No. 7 marked and admitted)

2 CHAIRMAN DUNCAN: Are there any other  
3 exhibits that --

4 SEN. FRASER: Mr. President?

5 CHAIRMAN DUNCAN: -- were discussed that  
6 we'd like to include? Senator Fraser?

7 SEN. FRASER: And I had one that I  
8 mentioned that I was going to enter in that I have not  
9 yet. It is the Lighthouse Opinion Poll. This is the  
10 most current poll that is taken and has a very good  
11 breakout of not only across the state, the regions, but  
12 also has a breakout, Republican, Democrat, and it breaks  
13 out for the African American, Hispanic, and --

14 CHAIRMAN DUNCAN: Do you have copies of  
15 that to distribute?

16 SEN. FRASER: I have one copy.

17 CHAIRMAN DUNCAN: Okay. Well, Exhibit 8  
18 will be received, but if you'll go ahead and get copies  
19 so that we can distribute those at this time.

20 (Exhibit No. 8 marked and admitted)

21 SEN. GALLEGOS: Mr. President?

22 CHAIRMAN DUNCAN: Senator Gallegos, for  
23 what purpose?

24 SEN. GALLEGOS: I have also some diagrams,  
25 but I wasn't going to present them until the time of my

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1 amendments. I mean, do they need to be entered now or  
2 at the time of the amendment?

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3 CHAIRMAN DUNCAN: I don't see any problem  
4 with entering them at the time when it's relevant to  
5 what you're trying to do.

6 SEN. GALLEGOS: Yeah.

7 CHAIRMAN DUNCAN: You can put them in the  
8 record at that time --

9 SEN. GALLEGOS: Okay.

10 CHAIRMAN DUNCAN: -- when we're --

11 SEN. GALLEGOS: Then I'll wait till --

12 till the time of the amendment. Thank you,

13 Mr. President.

14 CHAIRMAN DUNCAN: All right. Members, the  
15 next phase is the invited testimony.

16 And Senator Van de Putte and Senator  
17 Fraser, if you could come up to the -- make sure we've  
18 got everybody in the right order.

19 And while they're coming up, I want to  
20 announce that it's my intention to -- we have about  
21 17 -- last check, 17 registered witnesses for public  
22 testimony, and I would like to accommodate those  
23 witnesses, if we could. So remember that when you're  
24 questioning and -- that we have some folks that would  
25 like to testify here later on.

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1 All right. Members, let's go ahead and  
2 move into the invited testimony.

3 The first witness will be Jerry Bonnett,  
4 general counsel, Indiana Secretary of State.  
5 Mr. Bonnett? Mr. Bonnett, you'll have ten minutes the  
6 timer is right before you. You'll get a yellow light at  
7 30 seconds, I think. And then we'll strictly hold you  
8 to the time, and then open it to questions at that time.  
9 You'll not be interrupted during your testimony.

10 INVITED TESTIMONY

11 TESTIMONY BY JERRY BONNETT

12 MR. BONNETT: All right. Thank you,  
13 Chairman Duncan. I want to thank Senator Fraser and  
14 supporters of Senate Bill 14 for inviting me to be here  
15 today.

16 CHAIRMAN DUNCAN: Would you state your  
17 name and --

18 MR. BONNETT: Yes. My name is Jerry  
19 Bonnett. I've served as general counsel for the Indiana  
20 Secretary of State Todd Rokita from 2005 to the end of  
21 2010 when he completed his second term in office. I am  
22 currently serving as general counsel to Indiana's next  
23 Secretary of State and chief election officer, the  
24 Honorable Charles White.

25 Since 2005, my duties as general counsel

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1 have involved assisting with the implementation of  
2 Indiana's photo ID law, including working with multiple  
3 players in Indiana's election process, which is included  
4 the Bureau of Motor Vehicles, county election boards,

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5 poll workers, our Help America Vote Act, and support  
6 agencies in coming up with the procedures and rules to  
7 administer our photo ID law.

8 I've also been responsible for statewide  
9 monitoring of election day activity in elections in our  
10 statewide and primary -- primary general elections in  
11 2006, 2007, 2008, and 2010. I've reviewed every  
12 complaint from the -- regarding voting submitted to the  
13 Secretary of State, the Indiana Election Division, the  
14 Indiana Election Commission, the Department of Justice,  
15 our Help America Vote Act, and other county election  
16 boards.

17 I've also assisted the Indiana Attorney  
18 General and the Indiana Solicitor General with the  
19 discovery trials appeals and ultimately Supreme Court  
20 review in the state courts and in the U.S. Supreme Court  
21 of Indiana's photo ID law.

22 Prior to the first statewide election in  
23 Indiana under the photo ID law, there was no shortage of  
24 organizations claiming that we smell a rat of some sort  
25 and that the law has some illegal discriminatory effect

0272

1 or political subtext. My job has been to look for  
2 exactly any application of the law that was illegal or  
3 overburdensome.

4 Despite the intense scrutiny of the law  
5 that has been locally -- local, state, national, and  
6 even international, in my impression, Indiana has  
7 been -- and our courts who have been very open to giving  
8 a fair and complete hearing to anyone feeling aggrieved or  
9 disenfranchised by our voter ID laws. In the five years  
10 and eight statewide primary general elections I've been  
11 involved with, there's been scant evidence of  
12 disenfranchisement or discrimination in Indiana. If the  
13 naysayers and conspiracy theorists and armchair social  
14 scientists were correct in their prognostications,  
15 Indiana would have experienced hundreds of thousands of  
16 disenfranchised voters after the laws passed in 2005,  
17 but hardly any group or individual or circumstance has  
18 been found that has genuinely disenfranchised or  
19 inconvenienced a voter beyond what the Supreme Court has  
20 held to be the reasonable, orderly regulation of  
21 elections.

22 Did Indiana fix something that wasn't  
23 broke? Was it a law in search of a crime? Admittedly,  
24 there's been little evidence of in-person voter fraud in  
25 Indiana, but that's been of little consolation to

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1 citizens who have come to Secretary of State's office  
2 with concerns about the confidence in our elections.

3 What Indiana has experienced were  
4 manipulation of voter registrations with thousands of  
5 voter registrations submitted just prior to the closing  
6 of registration which have confounded the orderly

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7 registration of voters. Indiana has experienced issues  
8 with voter list maintenance where -- where partisan  
9 activists have refused to update voter registration  
10 lists, insisting the U.S. Department of Justice to  
11 intervene and require voter list maintenance in Indiana.  
12 Indiana has seen inconsistent agency-to-agency  
13 cooperation in the sharing of information. There have  
14 been times when the Social Security office was unable to  
15 provide verifications of voter registrations, times when  
16 other state agencies were not able to exchange  
17 information that would assist in verifying voter  
18 registrations.

19 There have been reports of people in urban  
20 areas being bussed around from poll location to poll  
21 location. There is evidence, after the fact, of dead  
22 voters having registered or of dead voters having voted.  
23 There was also a report of a well-intentioned high  
24 school civics teacher who was intent on having every 17  
25 year old that came into her class register to vote and  
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1 every 18 year old vote even though there were some  
2 students of hers who are not students -- who are not  
3 U.S. citizens, but they were shamed into going through  
4 the registration process and that resulted in illegal --  
5 an illegal vote being cast and also confounded those  
6 students eventual efforts to become naturalized U.S.  
7 citizens.

8 In my position, I am in a position to say  
9 that the law has not been applied -- has been applied in  
10 the strict and unbending manner that the dissenters have  
11 suggested.

12 After the 2005 photo ID law was enacted  
13 but before the first election was held, the Secretary of  
14 State and the election division and interested groups  
15 developed procedures to deal with the issue of the  
16 conformity of names on an ID to voter registration  
17 lists. Rules were developed that would allow for a  
18 voter named Mary Ellen Smith to -- who might appear on  
19 the voter registration in as many as ten different ways  
20 to -- to proceed to vote.

21 Also, Indiana -- rules were adopted by the  
22 Election Division in Indiana so that if a voter had  
23 married between the time of the voter registration, at  
24 the polls on election day, they could update their voter  
25 registration by signing the poll book and proceed to  
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1 vote. In Indiana, voters can conform their voter  
2 registration up through election day to the IDs that  
3 they have.

4 Other state agencies have reached out to  
5 anyone identified who has been experiencing problems of  
6 obtaining photo IDs. In Indiana, it's not a money  
7 issue. And an ID is reviewed by social service agencies  
8 in Indiana as key to other social services and other

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9 benefits of citizenship, and there's been an interest in  
 10 working with individuals who had difficulty obtaining  
 11 photo ID. Also, in the Indiana Election Day Handbook,  
 12 in bold print, it says, on -- in several locations, that  
 13 lack of ID or problems with an ID is not a cause for  
 14 someone -- for a voter to be turned away.

15 After five busy years of monitoring  
 16 primary general elections in Indiana, working with  
 17 deputies, reviewing complaints, I can say that Indiana's  
 18 photo ID law is not only constitutional as it is written  
 19 but as it has been applied in routine use -- is applied  
 20 and become routinely used in good faith and in -- and in  
 21 an accommodating matter in the state.

22 Now, keeping to its principal and intent,  
 23 Indiana's law, subject to all matter of partisan,  
 24 nonpartisan, state, national scrutiny, has not been  
 25 applied with the rigid inflexibility and consequences  
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1 predicted by detractors. After exhaustive review in the  
 2 state and federal courts involving the application of  
 3 the law as applied -- instance of the law and in -- and  
 4 in Indiana's informed public opinion, Indiana photo ID  
 5 has earned broad acceptance, even from skeptics, as  
 6 become -- as having become integral component of voter  
 7 confidence and law that honors the privilege and the  
 8 dignity of American's right to free and equal  
 9 participation in elections.

10 So I honor you for the difficult work  
 11 you're doing here today. I assure you that the work  
 12 won't be done if and when you pass Senate Bill 14. I  
 13 can certainly tell you that the sun came up in Indiana  
 14 after Indiana's photo ID was passed. It continued to  
 15 come up and continues to come up after each election  
 16 that we have. So I'm ready to address your questions,  
 17 please.

18 CHAIRMAN DUNCAN: Thank you, Mr. Bonnett.

19 So we'll have our first questions.

20 Senator Van de Putte, you're recognized.

21 QUESTIONS FROM SENATE FLOOR

22 SEN. VAN de PUTTE: Thank you very much,  
 23 Mr. Chairman.

24 And thank you very much, Mr. Bonnett, for  
 25 traveling from Indiana. I know on such short notice.

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1 We appreciate you being here to help us with your expert  
 2 testimony as we deliberate this very, very important  
 3 issue.

4 I had a few questions that -- that I  
 5 wanted to ask because here in Texas, we looked at the  
 6 Indiana law, and we're looking toward -- this is -- as  
 7 our bill author has said, it's kind of a Texas bill,  
 8 which we think is more restrictive than yours. And we  
 9 have heard from testimony that there is increased  
 10 turnout, and you haven't found any instances in where

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11 the burden of the new Indiana law was placed upon  
 12 anybody. And -- and I think in your testimony and in --  
 13 said that it is working and even in your Supreme Court  
 14 case, no party or amicus cited -- well, of course, there  
 15 were no cases of impersonation at the polls in Indiana.

16 So I have some confusion because in the  
 17 bill that you passed, we had reports in Marion County in  
 18 2007 that 32 vote -- voters cast ballots that could not  
 19 be counted because of the voter ID law, and I want to  
 20 ask you about them because just a couple of them really  
 21 bring to mind some difficulties, and yet you cited that  
 22 there were no problems.

23 In South Bend, Indiana, ten retired nuns  
 24 were barred from voting in the 2008 Indiana democratic  
 25 primary. Some of them were in their 80s and 90s. They

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1 no longer had driver's license. They lived at the  
 2 convent, and the convent actually had the polling place  
 3 in their convent. The irony was that I believe in that  
 4 case, the election judges were actually other nuns who  
 5 lived with these nuns, but they were barred from casting  
 6 a ballot even though they had previously voted in at  
 7 least ten elections in Indiana but that these nuns were  
 8 not able to because they did not have an ID, even though  
 9 the election judges live with them. And so can you  
 10 comment? This was in the newspapers, but it was also in  
 11 Catholic Digest magazine and so wanted to know because  
 12 we heard --

13 MR. BONNETT: I can't --

14 SEN. VAN de PUTTE: -- that there were no  
 15 instances, yet we had these reports. And so could you  
 16 tell us? I mean, what happened to these nuns?

17 MR. BONNETT: I can't speak to the -- the  
 18 Marion County voters that you referenced to, although I  
 19 think that was covered in the Indiana League of Women  
 20 Voters v. Rokita case that was heard by the Indiana  
 21 Supreme Court.

22 In the case of the -- the -- the nuns, in  
 23 Northern Indiana, the -- it's my understanding and  
 24 that -- that situation was also discussed in -- in the  
 25 Crawford case -- the -- the nuns did have passports.

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1 They did have a form of ID that was acceptable, but they  
 2 refused to present that. They were eligible for other  
 3 exceptions under the law, absentee voting exception, and  
 4 it was really a media event because the media had been  
 5 brought to the scene before. And they also refused to  
 6 go provisionally. I did not -- I believe they were  
 7 brought in a van to a polling location that was not --  
 8 not, I understand, any time that they were voting at the  
 9 place that they lived.

10 SEN. VAN de PUTTE: So --

11 MR. BONNETT: That incident was -- seemed  
 12 to be discredited as a -- as a legitimate case of

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13 disenfranchisement.

14 SEN. VAN de PUTTE: So you're saying these  
15 nuns organized in a -- in a fraudulent matter, that  
16 these nuns all got together? But even though they're --  
17 from the report what was reported, they lived at the  
18 convent, and they were all in their 80s and 90s. So I  
19 don't know. You know, maybe they had passports, maybe  
20 they didn't. But you're saying that this was  
21 orchestrated by these devious nuns to actually prove up  
22 Indiana law, and really, they intended to mess you up  
23 purposefully or --

24 MR. BONNETT: Yes, Your Honor.

25 SEN. VAN de PUTTE: Oh, thank you.

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1 (Laughter)

2 SEN. VAN de PUTTE: Well, let me ask you  
3 about another case. One of them was Lauren McCallick  
4 who was an 18-year-old freshman at Saint Mary's College  
5 in South Bend and who was not able to cast her ballot  
6 that was due because of the law, and so that was one of  
7 the cases that was there. And can you tell me about  
8 her? Was she devious, as well, or was it orchestrated?

9 I mean, from the reports and from what was  
10 happened, she was crying and she -- it was the first  
11 time that she was going to be able to vote, and she  
12 tried to -- she did do a provisional ballot. But since  
13 she couldn't get the documentation that she needed  
14 within the time requirement, she didn't have a chance to  
15 vote because she was in class and she couldn't go back  
16 to her -- so can you tell me what happened to Ms. Lauren  
17 McCallick in this case?

18 MR. BONNETT: Unfortunately, I'm not  
19 familiar with -- with that case.

20 SEN. VAN de PUTTE: Oh.

21 MR. BONNETT: So --

22 SEN. VAN de PUTTE: Well, then what  
23 happened in -- again, in Marion County, when we had some  
24 senior citizens that weren't able to? Now, they weren't  
25 devious nuns. These were seniors who were living in

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1 a -- some sort of a -- it wasn't a senior assisted, but  
2 it was some sort of a temporary, like rehab, where  
3 people go after strokes or after a motor vehicle  
4 accident, and that they weren't allowed. I mean, I can  
5 understand your story about the nuns because, you know,  
6 I'm a Catholic and sometimes they get really organized,  
7 and they make their point. But what --

8 MR. BONNETT: I am too.

9 SEN. VAN de PUTTE: What -- what about the  
10 people who were living in the -- again, in Marion  
11 County, in a -- not their full residence --

12 MR. BONNETT: Uh-huh.

13 SEN. VAN de PUTTE: -- but for a certain  
14 period of time because they had a disability, they had

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15 had a stroke, and they were living in this. What  
16 happened to those folks?

17 MR. BONNETT: Well, and I don't know the  
18 specifics without more information, but every -- every  
19 reported case has been investigated and reviewed. The  
20 state election division, the state social service  
21 agencies, and Bureau of Motor Vehicles Division have  
22 been quite willing to assist voters who have -- have had  
23 difficulties obtaining an ID.

24 The largest group of voters in Indiana had  
25 some form of ID, a -- a -- of what was left over, the  
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1 exceptions covered many of those voters, and the --  
2 ultimately, you know, anyone registered to vote who  
3 didn't have the ID, that group was small and has not  
4 been identifiable in such a way that the state has been  
5 able to even identify them, and certainly efforts have  
6 been made in litigation to try and identify a group.  
7 But I -- I believe the state would develop  
8 administrative procedures to assist anyone having  
9 trouble with an ID faster than the litigation would  
10 proceed through the courts to try and validate the law.

11 SEN. VAN de PUTTE: Well, I appreciate  
12 your answer, but you can understand my concern.  
13 Particularly in the district that I represent, we have,  
14 that I know of, six convents, the Sisters of Divine  
15 Providence with their mother house with over 120 retired  
16 nuns living there from orders all over; the Society of  
17 Mary, which they're Marianist priests, and after they  
18 finish at the University of Dayton and other Marianist  
19 schools, they come to San Antonio and live right there  
20 at Saint Mary's University. We have over 56 nuns from  
21 Incarnate Word and that community, and they're, you  
22 know, in their 80s, 90s. In fact, we even have a couple  
23 that are over a hundred, and while on and on, you see my  
24 problem.

25 And when I read things about Indiana and  
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1 having the religious who don't live outside in homes but  
2 who all have the same residences and who come back to  
3 that convent or retirement home run by the nuns or run  
4 by the priests, it's -- it's very difficult, and so I  
5 have some concerns because I have so many voters that  
6 are retired religious, and that's why I wanted to clear  
7 that up.

8 But let me ask you about something else.

9 MR. BONNETT: If I may, before you change  
10 the subject, I will note that Indiana, for example, has  
11 a Mennonite population that objects to being  
12 photographed, and our law provided an exception for  
13 individuals for religious reasons who objected to being  
14 photographed; and there is an exception for disabled  
15 individuals who live within a state licensed  
16 convalescent or care center. So Indiana has developed

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17 exceptions for identifiable groups.

18 SEN. VAN de PUTTE: Oh, well, I think  
19 that's wonderful that Indiana did that, but you may not  
20 know that that's in our Texas bill.

21 MR. BONNETT: Uh-huh.

22 SEN. VAN de PUTTE: And so why this is  
23 more restrictive than Indiana is we don't have the  
24 protections that you do in Indiana under this bill, for  
25 those who live in religious communities, for those who

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1 are disabled.

2 And that's the other thing I wanted to  
3 talk to you about because I understand that, you know,  
4 this is about the other thing that you said about  
5 increased turnout. But I really wanted to talk to you  
6 about -- because, I mean, let's face it, isn't the  
7 turnout from 2008 November election because we had a  
8 highly contested primary season, but it was because we  
9 had this wonderful, wonderful, very, very active  
10 electorate in electing between now President Obama and  
11 John McCain. I mean, it was fabulous. I mean, so you  
12 really can't compare turnouts to turnouts because the  
13 turnout was wonderful in November, and we're all very  
14 excited about that. So I wonder a little bit because, I  
15 mean, everybody's turnout went up.

16 MR. BONNETT: May I respond to that?

17 SEN. VAN de PUTTE: Absolutely, please.

18 MR. BONNETT: If you compare the turnout  
19 in the 2006 election, which was a nonpresidential  
20 off-election year but -- for statewide primary and  
21 general elections to the 2010 election last year, there  
22 was also an increase between 2006 and 2010 in -- in  
23 voter turnout in Indiana, which would be more comparing  
24 the apples -- apples to oranges.

25 And you're right, in 2008, Indiana voted

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1 it's electoral votes for a Democratic presidential  
2 candidate for the first time in over 30 years. Also, in  
3 the 2006 state Congressional races after the photo ID  
4 was enacted, three of Indiana's nine Congressional seats  
5 switched from Democrat -- or from Republican to  
6 Democrat, which tended to dispute the theory of the  
7 political subtext of the law.

8 SEN. VAN de PUTTE: Thank you. There --  
9 there are a couple of other questions that I wanted  
10 to -- to --

11 MR. BONNETT: Uh-huh.

12 SEN. VAN de PUTTE: -- check on Indiana  
13 law. Can you tell me -- your law has a free voter ID  
14 card issued by the state or the county. Are there  
15 restrictions or affidavits or a means test for access to  
16 a free voter identification card from Indiana?

17 MR. BONNETT: I don't want to misstate --  
18 misspeak that. It's on the Bureau of Motor Vehicle

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19 Regulations. I -- I believe that the person applied for  
20 that ID needs to sign an affidavit that they don't  
21 have -- have another ID with the state. But beyond  
22 that, I'm not -- I can't say about the issue of the  
23 means --

24 SEN. VAN de PUTTE: Well --

25 MR. BONNETT: -- test.

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1 SEN. VAN de PUTTE: Well, I looked at it,  
2 and I didn't think so. It just says that they have to  
3 state that they don't have a driver's license and they  
4 don't have another.

5 MR. BONNETT: Uh-huh.

6 SEN. VAN de PUTTE: But there is no  
7 affidavit of indigency or -- or anything required, at  
8 least from what I looked at your law. But I'm not sure.  
9 That's why I wanted to ask.

10 MR. BONNETT: That's my understanding.  
11 Now, a related issue is when a provisional ballot is  
12 verified, if a voter who has voted provisionally within  
13 the ten days after the election signs an affidavit that  
14 they don't have an ID and cannot get one without expense  
15 and possibly can't afford one -- I'm not sure of the  
16 exact language on the affidavit -- then they're entitled  
17 to have their vote counted.

18 SEN. VAN de PUTTE: Well, one of the  
19 things that I wanted to look at, and I have the Indiana  
20 law and I -- because ours is a little bit more  
21 restrictive. But under your section of the -- of the  
22 Indiana bill, it has something in here because -- that  
23 has me a little troubled because we don't, and I'm going  
24 to read it.

25 But the voter prescribed by -- and it has

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1 Indiana code that has not complied with -- and I think  
2 that Indiana code 3-7-33-4.5 -- on election day must  
3 present one of the following documents to the -- and it  
4 says, "A current and valid photo ID," or it says,  
5 "current utility bill, bank statement, government check,  
6 paycheck, government document that shows the name and  
7 address of the voter." And yet we've been told that  
8 Indiana only has a photo.

9 So what -- what is this section referring  
10 to? Is it a provisional ballot or is it a first-time  
11 voter or -- or does Indiana allow for the photo ID, but  
12 if they don't have the photo ID, can they use other  
13 forms?

14 MR. BONNETT: I'm not aware that Indiana  
15 accepts any alternative than a photo ID. That might --  
16 I'd have to look at the law carefully on that. Might  
17 refer to the verification of address or the residency  
18 with respect to voters who have moved, but I do not  
19 believe that Indiana has any requirement other than --  
20 than that of a -- of a government-issued photo ID with

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21 an expiration date for in-person voting.

22 SEN. VAN de PUTTE: Well, I think that  
23 is -- it was very hard to follow, but I think it's under  
24 a provisional ballot that has a state's licensed care  
25 facility or something. But there is at least that  
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1 protection for those who are at a temporary facility;  
2 that even if they don't have a photo ID, the exception  
3 is not that they're just exempted but I think that they  
4 can utilize other forms of ID, which our Texas bill  
5 doesn't have.

6 To your knowledge, was -- since this was  
7 from the Indiana Legislature, do you remember any  
8 discussions on why they -- they put that in? Was this  
9 put in at the same time as the original voter ID  
10 legislation, or was this only done after the mess up  
11 with, you know, the nuns and the -- the other folks who  
12 were at this temporary facility?

13 MR. BONNETT: I didn't live in Indiana  
14 during the time that this legislation was -- was  
15 discussed and deliberated, but it's my understanding  
16 that the -- the exceptions to the provisions for  
17 individuals who live in state-licensed assisted living  
18 facilities has always been part of the -- of the  
19 scheme -- or the bill, and I think the -- the utility  
20 bills and the other documents you refer to might go to  
21 the issue of establishing their residency in the  
22 state-licensed facility, which is then an exception if  
23 the polling place is located in that facility.

24 SEN. VAN de PUTTE: Thank you. I really  
25 appreciate your candid answer; and, again, we thank you  
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1 very much for your travel here to help us on this  
2 important deliberation. Thank you.

3 MR. BONNETT: Thank you.

4 SEN. VAN de PUTTE: I don't have any other  
5 questions, Mr. Chairman.

6 CHAIRMAN DUNCAN: Chair recognizes Senator  
7 Davis.

8 SEN. DAVIS: Thank you, Mr. Chair.

9 Mr. Secretary, thank you so much for  
10 traveling to be with us today and to help inform us  
11 about the work that you've done in Indiana on this  
12 issue. I just want to make sure that I clearly  
13 understand because today there's been a great deal of  
14 discussion about your bill, as you can imagine, as the  
15 reason why the bill that's being proposed in the Texas  
16 Senate today would be able to withstand constitutional  
17 scrutiny. So I want to make sure that we have a clear  
18 record in terms of how the bill that Indiana has  
19 introduced, or the law that you've introduced, mirrors  
20 or does not mirror what we are -- are discussing on the  
21 Senate floor today.

22 So I think I heard you say that you do

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23 allow women who have been married or divorced to come in  
24 to vote and to provide some affidavit that they -- their  
25 name has changed and is different than is on the ID that

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1 they have because of marriage or divorce. Is that  
2 correct?

3 MR. BONNETT: That's correct. That's by  
4 administrative directive. It's not part of the statute.  
5 And I'll say that when the -- when the Indiana courts  
6 and the -- the federal courts reviewed the law, it was  
7 reviewed in the context not just of the statutory  
8 language but other administrative procedures that were  
9 developed after the law was passed, after the framework  
10 of the law was passed, for the -- the view of -- as  
11 applied, how the law was applied.

12 SEN. DAVIS: Absolutely. And I think  
13 that's terribly important, and I'd like to invite you  
14 to -- to please inform us as much as possible both  
15 statutorily what was reviewed in terms of what you've  
16 done to try to preserve the integrity of someone's right  
17 to vote and administratively what's been done.

18 So you said on that particular one, that  
19 was a rule that was instituted administratively, but it  
20 was part of what was reviewed by the court system in  
21 terms of the implementation of that law?

22 MR. BONNETT: Yes. That -- that directive  
23 clarified procedures for poll workers in -- in viewing  
24 IDs for conforming names.

25 SEN. DAVIS: And then I believe you said  
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1 that in the -- the language that's presented to a voter  
2 in terms of their right to vote in Indiana, in bold  
3 language, you have clarified for voters there that not  
4 having a photo ID will not in and of itself be  
5 sufficient cause for them not to be able to vote. Is  
6 that correct?

7 MR. BONNETT: Yes. I'll -- I'll just look  
8 up the exact -- the exact bold language, one example's  
9 are referred to on Page 10 of the Indiana Election Day  
10 Handbook. This is the 2008 copy. In bold, "No voter  
11 should be turned away from the polls for failing to  
12 provide photo ID." That's -- that's instruction to all  
13 poll workers.

14 SEN. DAVIS: And does that wording go to  
15 instances where, for example, as you -- as you talked  
16 about earlier, if a person comes to the poll and they do  
17 not have a photo ID, they can vote a provisional  
18 ballot -- or ballot -- excuse me -- on the condition  
19 that they attest that they do not have a photo ID  
20 because there would be a cost to receiving that ID  
21 either through having to get the underlying  
22 documentation that would qualify them to receive the ID  
23 or some other cost that would be associated with  
24 receiving the ID?

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25 MR. BONNETT: Yes, there are several

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1 alternatives to means to -- to verifying a provisional

2 ID to allow --

3 SEN. DAVIS: And can you discuss what  
4 those several alternatives are, please?

5 MR. BONNETT: Well, generally, providing  
6 the -- the ID or providing the -- the -- the voter  
7 registration correction or an affidavit that there is a  
8 religious exception to being photographed, that an ID  
9 cannot be obtained without -- without cost. There may  
10 be another. That's provided for in the Voter Bill of  
11 Rights which is posted at each poll site, and then  
12 voters who vote provisionally are given a paper receipt,  
13 so to speak, with the instructions on how to verify  
14 their provisional ballot and have it cast, how and  
15 where.

16 SEN. DAVIS: Thank you. That's very  
17 helpful.

18 And I believe you also have a provision in  
19 Indiana, do you not, that allows for the use of an  
20 expired driver's license for a certain period of time.  
21 Is that correct?

22 MR. BONNETT: Yes. And I believe if it --  
23 if it goes back to the beginning of the -- the opening  
24 of registration for the election which is generally 30  
25 days from the prior election. So it's generally about a

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1 year, year past.

2 SEN. DAVIS: Okay. Have you done any work  
3 in Indiana to track or to attempt to track the  
4 percentage of persons based on categories, whether it be  
5 senior status, whether it be minority status, whether it  
6 be indigent status, where people have claimed that  
7 somehow their right to vote has been interfered with as  
8 a result of this particular law?

9 MR. BONNETT: I'm not familiar with the  
10 state doing that research. Certainly the -- there are  
11 interest groups that have -- have made a concerted  
12 effort to identify individuals, groups, or  
13 characteristics, identify them and locate beyond the  
14 theoretical basis; and generally, it's not been  
15 something that's been accomplished. There's been a  
16 tremendous separation between the theoretical concerns  
17 and what's actually been experienced in our elections  
18 over the last five years.

19 SEN. DAVIS: When you started your  
20 comments this afternoon, you began by saying that there  
21 had been scant evidence of disenfranchisement, and scant  
22 to me means that there must have been some. So can you  
23 talk a little bit with us about what that's looked like  
24 for Indiana?

25 MR. BONNETT: There -- there was a single

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1 media report prior to the 2010 election, a few days  
 2 prior to the election. It was not officially reported  
 3 to the state, but the media account was a gentleman  
 4 of -- in a particular county of 40-something years, due  
 5 to some unusual circumstances did not have a birth  
 6 certificate. I think it involved him having been  
 7 discharged to foster care through state programs,  
 8 et cetera. But it also was evident that the Bureau of  
 9 Motor Vehicles Division has a special group -- team that  
 10 works with individuals who have particular problems to  
 11 address those needs. And the -- the report did not  
 12 result in -- in a complaint, and there was no indication  
 13 the state got that the person wasn't able to vote  
 14 under -- under one of the exceptions.

15 There have been some reports, also, that  
 16 generally upon investigation, the individuals were able  
 17 to vote under -- under some provision.

18 SEN. DAVIS: And you mentioned that -- a  
 19 moment ago, that through both administrative rule and  
 20 through the statute itself, in the state of Indiana,  
 21 you've tried to be cognizant of this disenfranchisement  
 22 issue through some of the -- the rules that you've  
 23 enacted along with it. We talked about the fact that  
 24 you have a religious exception for -- for people who  
 25 cannot be photographed or refused to be photographed for  
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1 religious purposes. We talked about the fact that if a  
 2 person comes to the polling location without an ID, they  
 3 can vote a provisional ballot so long as they attest as  
 4 one of the -- the reasons for voting that provisional  
 5 ballot, that they had to pay a fee in order to -- to get  
 6 a photo ID and they were unable to pay that fee. You  
 7 talked about the special rule that's been created to  
 8 handle the situation where women have been married or  
 9 divorced and their -- their name would be different than  
 10 what is on their ID.

11 Are there other -- and excuse me -- you  
 12 also talked about the expiration of a driver's license  
 13 not being a reason to immediately turn that -- that  
 14 voter away so long as it's within that --

15 MR. BONNETT: Uh-huh.

16 SEN. DAVIS: -- period of time that you  
 17 described earlier.

18 Are there any other conditions that were  
 19 implemented, either through the statute or through  
 20 administrative rule, that you feel we should know about  
 21 in terms of reflecting a sensitivity to trying to  
 22 preserve the enfranchisement of your voters as much as  
 23 possible?

24 MR. BONNETT: Yes. College -- college  
 25 students at some state universities have -- it came  
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1 about, they have IDs that don't have an expiration date,  
 2 and through arrangements with -- with state colleges,

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3 the universities provided through some type -- I believe  
4 it was a secure online facility -- a way for the polling  
5 locations to -- to verify the expiration date  
6 independent of the actual ID. And so arrangements were  
7 made, then, for students with -- with a university ID  
8 that did not have the expiration date but where the  
9 college was able to provide that information  
10 independently to go ahead and vote on election day.

11 SEN. DAVIS: Very good. Are there any  
12 other?

13 MR. BONNETT: Not that come to mind.

14 SEN. DAVIS: Okay. Thank you,  
15 Mr. Secretary. I appreciate it.

16 MR. BONNETT: Uh-huh.

17 CHAIRMAN DUNCAN: There being no further  
18 questions, Mr. Bonnett. Thank you for your testimony  
19 today and for traveling here.

20 SEN. WEST: Mr. Chairman?

21 CHAIRMAN DUNCAN: Senator West, you're a  
22 little late on the light there.

23 SEN. WEST: I thought it was on. I  
24 apologize. And I just have a couple of questions,  
25 anyway.

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1 And it may have already -- you may have  
2 already addressed this, and I just may not have heard  
3 it. As it relates to the provisional ballots in your  
4 state --

5 MR. BONNETT: Uh-huh.

6 SEN. WEST: -- an individual can, in fact,  
7 cast a provisional ballot. Is that correct?

8 MR. BONNETT: Yes.

9 SEN. WEST: Okay. And they have to --  
10 what's the process? Once they cast the ballot, in order  
11 for the ballot to count, they have to come back within a  
12 certain number of days?

13 MR. BONNETT: Within ten days.

14 SEN. WEST: And what do they have to do?

15 MR. BONNETT: They can correct any -- any  
16 issue with -- with voter registration. For example, if  
17 a person appears at a poll and they're simply not  
18 registered at all, they can still cast a provisional  
19 ballot. You know, there may be some administrative  
20 issue in the -- with kind of registration board about  
21 why they didn't show up in the precinct where they  
22 believe they needed to vote. That -- that can be  
23 corrected, and the Election Board is free to correct  
24 that through and beyond the election. They can bring in  
25 the identification, and they can certainly seek

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1 assistance with obtaining the identification that's  
2 required. They can also come and execute an affidavit  
3 that -- obviously, we talked about the exception to  
4 being photographed for religious reasons. They can

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5 execute an affidavit that says they -- they don't have  
6 the ID. They cannot get one without cost, and then  
7 they're eligible to have that vote counted.

8 SEN. WEST: Okay. So there's a process in  
9 place.

10 Does the state keep any tally or report on  
11 the number of provisional ballots that are cast in the  
12 state of Indiana?

13 MR. BONNETT: Yes. The county election  
14 boards submit that information with their -- with their  
15 poll results data to the Election Division, and it's --  
16 it's published online for every election. The -- the  
17 number of provisional ballots and the disposition and  
18 the counties actually are also required to send copies  
19 of the affidavits to the Secretary of State's office,  
20 which then can be examined for the reason. For example,  
21 how many didn't show up on a poll book or there was a  
22 challenge raised of some sort so that we can -- we've  
23 been able to investigate the status and disposition of  
24 provisional ballots.

25 SEN. WEST: Is that information  
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1 disaggregated by ethnicity?

2 MR. BONNETT: No. I'm not -- I do not  
3 believe that there's an indication on the provisional  
4 ballot affidavit.

5 SEN. WEST: So you really don't -- I mean,  
6 in terms of the provisional ballots, the tallies, in  
7 terms of provisional ballots, is it disaggregated by  
8 ethnicity; that is, the number of Hispanics, African  
9 Americans that are voting?

10 MR. BONNETT: It's not, although the  
11 copies of the affidavits are -- are -- are public  
12 information, and there have been some social scientists  
13 who have been studying and attempting to write about  
14 provisional ballots and determine if there's any -- any  
15 meeting or conclusions that can be gathered --

16 SEN. WEST: Has there been any -- any such  
17 studies done in Indiana?

18 MR. BONNETT: I have looked at one study  
19 from a adjunct law professor. It did not appear to  
20 provide any -- any academic or statistically sound  
21 conclusions. It was more a discourse on the issue of  
22 photo ID, in general, but it made some reference to some  
23 statistics that were, you know, tallies of the number of  
24 provisional ballots.

25 The provisional balloting started at the  
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1 same time as the photo ID, so we don't have a calculus  
2 of the provisional balloting before Indiana's photo ID.

3 SEN. WEST: Do you happen to have the cite  
4 for that particular professor's study or article?

5 MR. BONNETT: I'll be most happy to --

6 SEN. WEST: Okay.

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7 MR. BONNETT: -- to get it to you or get  
8 it to the committee.

9 SEN. WEST: To the chairman and the staff?  
10 I'd appreciate that.

11 As it relates to provisional ballots, is  
12 there any type of report on the number of individuals or  
13 the percentage of individuals that come back and go  
14 through the process to make certain their vote count?  
15 Is it less than 10 percent of those individuals that  
16 cast?

17 MR. BONNETT: I'm not aware of an  
18 aggregated report. The data exists, and it's -- it's  
19 online. I'm not aware of an aggregated analysis of how  
20 many.

21 Some provisional ballots, you know, there  
22 are some instances where a person would go to a precinct  
23 and not be registered to vote a provisional ballot and  
24 then be directed to, and the poll workers are advised to  
25 have someone go ahead and vote that provisional ballot.

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1 But then they may later in the day be directed to the  
2 right precinct, and then the -- you know, so there can  
3 be more than one provisional ballot.

4 There's also some of the scholarship  
5 related to the issue that if the outcomes of elections  
6 have been determined by substantial margins, then  
7 individuals may not feel a need to go back and verify  
8 the provisional ballots if the election were not so  
9 close that --

10 SEN. WEST: Right.

11 MR. BONNETT: -- that the votes were  
12 meaningful. So it's not really what -- what -- clear  
13 what the meaning of the numbers of provisional ballots  
14 and the ones that are verified means, as far as I'm  
15 aware.

16 SEN. WEST: But there's no statewide study  
17 or report that's done on an annual basis that looks at  
18 the percentage of individuals that cast provisional  
19 ballots that actually go back and verify their ability  
20 to --

21 MR. BONNETT: That data is reported in --  
22 but I'm not aware of analysis of it. The number by  
23 county of provisional ballots, probably by precinct,  
24 that were cast and their ultimate disposition is -- is  
25 reported in -- in election return statistics. Analysis

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1 of it is not something that I'm aware of, though.

2 SEN. WEST: Okay. You indicated that the  
3 affidavit was -- is public. Is it a --

4 MR. BONNETT: Yes.

5 SEN. WEST: -- public record?

6 And that's the -- when you say "the  
7 affidavit," what do you mean by that?

8 MR. BONNETT: That's a document that is

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9 initially executed by the voter at the time of casting  
10 the provisional ballot --  
11 SEN. WEST: Okay.  
12 MR. BONNETT: -- and then later, handled  
13 by the Election Board within that ten days to determine  
14 whether or not that vote -- the vote is sealed. The  
15 vote is sealed in an envelope.  
16 SEN. WEST: All right. I just wanted to  
17 make certain we were on the same page.  
18 Okay. Thank you very much, Mr. Chairman.  
19 MR. BONNETT: You're welcome.  
20 SEN. WEST: I would like to get that cite  
21 for the study, though.  
22 CHAIRMAN DUNCAN: Senator Gallegos?  
23 SEN. GALLEGOS: Mr. Secretary, let me ask  
24 you one question. Is your Indiana driver's license, is  
25 it a valid form of ID under Indiana law?  
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1 MR. BONNETT: Yes, it is a state-issue ID.  
2 SEN. GALLEGOS: It is valid?  
3 MR. BONNETT: Uh-huh.  
4 SEN. GALLEGOS: And any supplements of  
5 that Indiana license, is that also a form of ID? What I  
6 mean supplements is, if it -- if a driver's license is  
7 confiscated and you get a temporary, is that also a  
8 valid -- a valid form of ID?  
9 MR. BONNETT: If the -- I don't believe  
10 that the state driver's license is specified in the  
11 legislation. It's specified more generically, a  
12 state-issued ID with photograph with an expiration date  
13 or government-issued ID.  
14 It's my understanding when a driver's  
15 license is confiscated that the Bureau of Motor Vehicles  
16 will immediately issue another form of ID that is a --  
17 for example, driving is restricted.  
18 SEN. GALLEGOS: And that is a valid form  
19 of ID?  
20 MR. BONNETT: Yeah.  
21 SEN. GALLEGOS: Okay.  
22 MR. BONNETT: I don't believe the -- I  
23 remember when I lived in Texas and in Louisiana  
24 sometimes the police would take away your ID and give  
25 you a piece of paper that was sort of -- to cover for  
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1 you, and that type of document would not be.  
2 SEN. GALLEGOS: Yeah. But that is a valid  
3 form of ID in Indiana?  
4 MR. BONNETT: It would be required to  
5 have -- the ID would be required to have a picture and  
6 have the expiration date. And so something other than  
7 that would not be allowed for voting. It would still be  
8 required to have a picture.  
9 SEN. GALLEGOS: Thank you.  
10 MR. BONNETT: Does that answer your

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11 question?

12 SEN. GALLEGOS: Yeah.

13 CHAIRMAN DUNCAN: Thank you, Mr. Bonnett.

14 We appreciate your appearance here today.

15 TESTIMONY BY LUIS FIGUEROA

16 CHAIRMAN DUNCAN: The Chair calls Luis

17 Figueroa -- Figueroa, Mexican American Legal Defense

18 Education Fund, or MALDEF. Would you state your name,

19 please, and who you represent?

20 MR. FIGUEROA: Absolutely. My name is

21 Luis Figueroa. I'm the legislative staff attorney with

22 the Mexican American Legal Defense and Educational Fund,

23 MALDEF. Thank you very much for this opportunity to

24 testify before the Senate on this important legislation.

25 MALDEF works to promote and protect the

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1 rights of Latinos, including voting rights and in the

2 state of Texas and across the nation. We have an

3 extensive history in the Voting Rights Act and in

4 protecting voting rights across the nation and, of

5 course, here in Texas, going back to the case of White

6 v. Register and most recently in LULAC v. Perry

7 challenging the redistricting implementation from the

8 last decade for last -- from the last session.

9 We stand here opposed to SB 14 because it

10 lacks the safeguards to ensure that eligible voters will

11 not be disenfranchised at the polls. If SB 14 was

12 enacted, it would be the most restrictive photo ID

13 requirement in the nation, more restrictive than

14 Indiana, more restrictive than Georgia, more restrictive

15 than Arizona. They would allow for voter identity

16 documents, less time to cure for provisional ballots,

17 and it would be even more difficult to cure than any of

18 the other states.

19 Studies after studies have shown that

20 voter ID and additional identification requirements at

21 the polls do have an impact on minority voters and on

22 other protected classes. The study from voter ID

23 requirements and disenfranchisement of Latino, black and

24 Asian voters by Barreto, Nino & Sanchez states

25 "Controlling for age, income and education, we find the

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1 naturalized citizens and minority voters are

2 significantly less likely to be able to provide multiple

3 forms of identification such as a copy of their original

4 birth certificate or recent bank statements.

5 Respondents were asked about their ability to provide

6 approximately six unique forms of identification, and

7 naturalized citizens and minority voters were

8 consistently less likely to have each form of

9 identification. Data reflects identification trends of

10 actual voters, not just adult citizens, the findings go

11 far to suggest that photo -- that voter identification

12 laws could immediately disenfranchise many Latino,

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13 Asian, African-American citizens."

14 From the Rutgers study, protecting the  
15 enfranchised or restricting it, the effects of voter  
16 identification requirements and turnout, by Vercellotti  
17 and Anderson, states that "The predicted probability  
18 that Hispanics would vote in states that required  
19 nonphoto identification was about 10 percent points  
20 lower than in states where Hispanic voters gave their  
21 names."

22 In the Wisconsin study, the driver's  
23 license status of the voting age population was counted  
24 by John Pawasarat. It stated that "Minorities in poor  
25 populations are the most likely -- are the most likely

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1 to have driver's license problems. Less than half,  
2 40 percent, of Milwaukee County African-American adults  
3 and 43 percent of Hispanic adults have a valid driver's  
4 license compared to 85 percent of white adults in the  
5 balance of the state."

6 The Brennan Center, in their report  
7 Citizens Without Proof, A Survey of Americans'  
8 Possession of Documentary Proof of Citizenship and Photo  
9 Identification, stated, "Citizens with comparatively low  
10 incomes are less likely to possess documentation proving  
11 they are citizens. As many as 11 percent of United  
12 States Citizens, more than 21 individuals, do not have  
13 government-issued photo identification." It goes on to  
14 state that "25 percent of African-American voting-aged  
15 citizens have no current government-issued photo ID  
16 compared to 8 percent of white voting-aged citizens."

17 Study after study has shown that Latinos,  
18 African-Americans, elderly, the poor, students are less  
19 likely -- the disabled community are less likely to have  
20 the photo identification requirements required under  
21 SB 14.

22 It's important to note that Texas under  
23 current law has a voter ID requirements. It has an ID  
24 requirement that -- it requires that you bring a voter  
25 registration certificate or additional forms of

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1 identification. The question is, how much stricter can  
2 we make the voter identification requirement? The  
3 question is not whether to have a voter identification  
4 or not have it. The question is, how restrictive do we  
5 want to make it?

6 The current legislation presented before  
7 us does not provide for any alternative photo  
8 identification. It does not allow for student ID cards,  
9 for Medicaid, Medicaid cards, for expired driver's  
10 license, for expired military cards or for state-issued  
11 employer identifications.

12 We know that in our other states that have  
13 implemented strict voter identification laws that the  
14 ability to cure and to come back day to day and fix

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15 their provisional ballot, it does not happen with much  
16 frequency. Voters do not return within the allotted  
17 time period to fix their voter identification.

18 It's also worth noting that in SB 14 it  
19 actually lowers the amount of time from what Indiana  
20 requires, from ten days to six days -- six days to  
21 return and fix their voter identification. In Arizona,  
22 739 ballots were not counted where -- conditional  
23 provisional ballots were not counted, and only 158 were  
24 counted after voters cured their identification  
25 requirements.

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1 What we found in Arizona when we litigated  
2 was that the most common problem was a driver's license  
3 that did not match an address, that did not match a  
4 voter registration certificate. We know that Latinos,  
5 African-Americans and low income are the most mobile  
6 populations often moving from a rental apartment, moving  
7 from home to home, and as a result are most likely to  
8 have matching -- most likely have identification that  
9 doesn't match their voter registration certificate.

10 We know that providing a free personal  
11 identification certificate does not solve the problem if  
12 the documents needed to get a personal identification  
13 certificate are the same ones that the study show the  
14 minorities don't have. And we know that if people are  
15 required to bring birth certificates and other  
16 documentation that they are unable to get a current  
17 driver's license, that they are not likely to get the  
18 free personal identification if they lack those same  
19 documents.

20 We believe that there are ways to  
21 create -- there are ways to ensure that people who are  
22 voting are who they say they are. There are ways to do  
23 it without disenfranchising voters. What we need are  
24 appropriate safeguards in a photo identification law.  
25 We need to expand the current list of documents that are

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1 provided in SB 14, and most importantly we should  
2 incorporate a signature affidavit similar to Michigan  
3 and Florida to ensure that people who lack the  
4 identification requirements are still able to cast a  
5 ballot and have their vote count. It's about finding  
6 the right balance between security and access.

7 SB 14 only focuses on voter impersonation  
8 fraud while ignoring voter intimidation, deceptive  
9 practices and poll worker error. There are ways to  
10 ensure that voters who say they are -- are who they say  
11 without disenfranchising voters. Finding that right  
12 balance includes including two forms of nonphoto  
13 identification, requiring signature affidavit attesting  
14 to name, address and eligibility, including voter  
15 integrity task force, allowing for same-day election  
16 voter registration with an ID requirement, free ID that

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17 is not limited to the current requirements that require  
 18 the same documents that are required to get a driver's  
 19 license right now, training for poll workers and voter  
 20 education.

21 When we find the right balance between  
 22 access and security, we will ensure that we have the  
 23 voter confidence in our system, a system that is not  
 24 predicated on trying to disenfranchise voters, a system  
 25 that is not so unsecure that we don't have faith in our

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1 electoral system, but a system that provides for access  
 2 and security to ensure that all votes are counted, and  
 3 that is what we are aiming for.

4 With that, I'm open for questions, and I  
 5 thank you again for this opportunity.

6 SEN. ELTIFE: Members any questions?

7 (No response)

8 SEN. ELTIFE: Thank you, sir, for being  
 9 here today. Hold on one second.

10 QUESTIONS FROM SENATE FLOOR

11 SEN. ELTIFE: Senator Rodriguez?

12 SEN. RODRIGUEZ: Thank you, Mr. Chairman.

13 Mr. Figueroa, first of all, thank you for coming here to  
 14 testify this afternoon, particularly on such short  
 15 notice. I am familiar with MALDEF's work. In fact, I  
 16 serve on its board. So I know the great work that the  
 17 organization does to protect the rights of citizens,  
 18 particularly in the area of voting rights.

19 I want to ask you just a few questions and  
 20 mainly for clarification. I believe you started out by  
 21 comparing the legislation in Senate Bill 14 with the  
 22 Arizona -- the Indiana law, and I believe you even  
 23 mentioned the Arizona law. Could you give us  
 24 specifically in which ways SB 14 is more restrictive  
 25 than these other laws?

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1 MR. FIGUEROA: Absolutely. Senate Bill 14  
 2 has a very limited scope of identification requirements.  
 3 It only allows for a driver's license, a passport,  
 4 citizen certification and a military identification.  
 5 Arizona, which at the time was considered a pretty  
 6 restrictive identification requirement, allows for photo  
 7 ID, but also allows for two alternative nonphoto  
 8 identification. It was most similar to the proposal  
 9 that was introduced last session.

10 In Indiana where they do have a photo ID  
 11 requirement, they do allow for -- when you cast a  
 12 provisional ballot, you can come back within ten days  
 13 and you can attest to being indigent or you can attest  
 14 that you were unable to get the identification, and  
 15 they'll allow you an opportunity to have your vote  
 16 counted.

17 This law in SB 14 does not have any such  
 18 assertion to ensure the voters are counted. In fact, it

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19 lowers the amount of time for you to cure that  
20 provisional ballot. We're going from ten days to six  
21 days -- to six days.

22 And in Georgia, again, there are also  
23 other forms of identification that were allowed that are  
24 not allowed under Texas. Even in Indiana, the  
25 expiration date, you are allowed to have an expiration  
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1 date if you're within the last -- within the last  
2 election. If your driver's license was expired within  
3 the last election, they'd still allow you to vote. This  
4 would be by far the most restrictive ID requirements in  
5 the nation.

6 SEN. RODRIGUEZ: So given that, is it your  
7 opinion that this law, this bill that we're considering,  
8 would be much more likely to disenfranchise voters than  
9 these other states' laws?

10 MR. FIGUEROA: I do think the more -- the  
11 more requirements you put, the more limits on  
12 identification, the more likely you are to have an  
13 impact on the working poor and Latinos and  
14 African-Americans and other -- and other voters.

15 SEN. RODRIGUEZ: Could you go over some of  
16 the implementation challenges or issues that were  
17 confronted when the Arizona law was being implemented to  
18 give us a sense of what we might expect? And  
19 particularly you might -- if you could focus on how it  
20 may have impacted the Latino voters in Arizona.

21 MR. FIGUEROA: Absolutely. Our studies  
22 did find -- our expert did find a disparate impact in  
23 Arizona on Latino voters, and I grant you this was even  
24 with more broader identification requirements than this  
25 bill. So this bill would even have a stronger impact  
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1 than Arizona. What we found in Arizona was -- the most  
2 significant impact were poll workers who tried -- who  
3 claimed that the address had to match the voter  
4 registration certificate to the driver's license.

5 Poll worker training has got to be a key  
6 component of this. It's not clear from SB 14 about what  
7 to do if a driver's license doesn't match the voter --  
8 the voter registration certificate, whether that's  
9 because a recently married woman has a different last  
10 name, because there's a misspelling on the voter  
11 registration certificate, because the address doesn't  
12 match or the date of birth doesn't match. There's any  
13 numerous possibilities of a mismatch between the voter  
14 registration and the licenses that are going to be  
15 required. Are poll workers going to use that to  
16 disenfranchise voters? Well, we would hope not, but  
17 we -- in our experience, it has had that impact.

18 SEN. RODRIGUEZ: All right. Thank you.  
19 You stated the Latino voters are less likely to have the  
20 identification required by the bill. Can you tell us

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21 why?

22 MR. FIGUEROA: Yeah. I mean, a lot of  
23 this has to do with the difficulty in obtaining a  
24 driver's license right now. So we know that getting a  
25 driver's license has become increasingly more difficult

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1 by DPS under the current rules. Obtaining the -- having  
2 the birth certificate, the documentation that you need  
3 to get a driver's license is sometimes difficult to get.

4 The cost involved is also somewhat of a problem.

5 It's also a lot of people live in these  
6 rural counties or don't live near a DPS station and  
7 don't have a driver's license. Also, students who live  
8 with their -- with their parents and don't have a  
9 driver's license or they only have a student ID card may  
10 not have a driver's license or the funds or the time  
11 necessary to go get a driver's license.

12 SEN. RODRIGUEZ: I see. Finally, let me  
13 ask you just for the record here -- I think we know the  
14 answer -- but have Latino voters generally experienced,  
15 in the history of this state, disenfranchisement when it  
16 comes to exercising their right to vote?

17 MR. FIGUEROA: Yes. Texas has a long  
18 history of voter discrimination in Texas, which is why  
19 we're a Section 5 state under the Voting Rights Act. It  
20 is precisely because of our history and the all-white  
21 primaries, poll tax, disenfranchising voters through  
22 cracking and splitting and redistricting that we are a  
23 Section 5 state. And I believe that there's going to be  
24 a witness here today that's going to talk about that.

25 SEN. RODRIGUEZ: Do you feel that this

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1 long-standing history has engendered mistrust on the  
2 part of the Latino voters as far as coming out and  
3 voting?

4 MR. FIGUEROA: Yes. And ironically the  
5 voter ID or the photo ID legislation has been touted as  
6 a way to install voter confidence in our electoral  
7 system, but it's only confidence on the security side.  
8 It's not confidence on the access side. And from the  
9 Latino community, there needs to be stronger confidence  
10 on the access side. There's a long history of  
11 discrimination on the voting side of Latinos, and there  
12 is this feeling among many Latinos that there is a  
13 continual effort to prevent our ability to elect our  
14 candidates of choice and our ability to vote. So we  
15 need to work on our confidence on the access side,  
16 particularly with the Latino community.

17 SEN. RODRIGUEZ: Could you tell us whether  
18 on this last point even those Latinos with the required  
19 ID feel a distrust in participating?

20 MR. FIGUEROA: Yes. I mean --

21 SEN. RODRIGUEZ: And if so why?

22 MR. FIGUEROA: Texas has one of the lowest

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23 voter turnouts in the nation. I believe it may actually  
 24 be the lowest in the nation. Latino voter turnout is  
 25 dismal in comparison to other states. And those are

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1 people who are eligible -- who are eligible to vote,  
 2 have registered to vote and in many cases may have the  
 3 identification. But there is this feeling that there's  
 4 going to be a systematic way for their vote not to  
 5 count, that their vote won't make a difference. And so  
 6 we need to make efforts in this state to encourage  
 7 voting, not discourage it.

8 SEN. RODRIGUEZ: Thank you.

9 Thank you, Mr. Chairman.

10 CHAIRMAN DUNCAN: I think there's  
 11 another -- Senator Huffman was wishing to ask questions,  
 12 and I don't know that she's on the floor. Can you hold  
 13 on just a minute?

14 (Brief pause)

15 SEN. ELLIS: Mr. President?

16 Mr. President, parliamentary inquiry.

17 CHAIRMAN DUNCAN: State your inquiry.

18 SEN. ELLIS: You know the time of the

19 State of the Union Address tonight?

20 CHAIRMAN DUNCAN: It's this evening.

21 SEN. ELLIS: This evening? I was hoping I  
 22 could hold hands with some of my Republican colleagues  
 23 and watch it. So I'm wondering how long are we going to  
 24 be here tonight?

25 CHAIRMAN DUNCAN: We have two televisions

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1 in the lounge, Senator.

2 SEN. ELLIS: Well, if I really want to  
 3 feel the love, I'd like to be -- I'd like to be at home.

4 (Laughter)

5 CHAIRMAN DUNCAN: Senator Huffman -- have  
 6 you finished your inquiry, Senator Ellis?

7 SEN. ELLIS: (No audible response)

8 CHAIRMAN DUNCAN: Senator Huffman, you are  
 9 recognized.

10 SEN. HUFFMAN: Yes, sir. Thank you. Just  
 11 a couple of questions.

12 Sir, you said that this legislation  
 13 conveniently disenfranchises minority voters. Is that  
 14 correct?

15 MR. FIGUEROA: I don't think I used the  
 16 word "conveniently," but disenfranchises voter -- could  
 17 potentially disenfranchise voters.

18 SEN. HUFFMAN: Didn't MALDEF also claim in  
 19 the Crawford litigation that the Indiana photo ID law  
 20 disenfranchises minority voters?

21 MR. FIGUEROA: We actually didn't litigate  
 22 the Crawford litigation. We did submit an amicus brief  
 23 related to our Arizona litigation, and we were concerned  
 24 about the impact of Crawford as well as the Arizona

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